

**A REPORT TO
CITY AND COUNTY OF SAN FRANCISCO
MAYOR FRANK N. JORDAN**

**BOARD OF SUPERVISORS
COMMISSION ON THE STATUS OF WOMEN**

FROM MERRICK T. ROSSEIN ASSOCIATES

**SEXUAL HARASSMENT COMPLAINT PROCEDURES
IN THE CITY AND COUNTY
OF SAN FRANCISCO GOVERNMENT:
RECOMMENDATIONS TO IMPROVE THE
PREVENTION OF SEXUAL HARASSMENT
AND THE PROCESSING OF COMPLAINTS**

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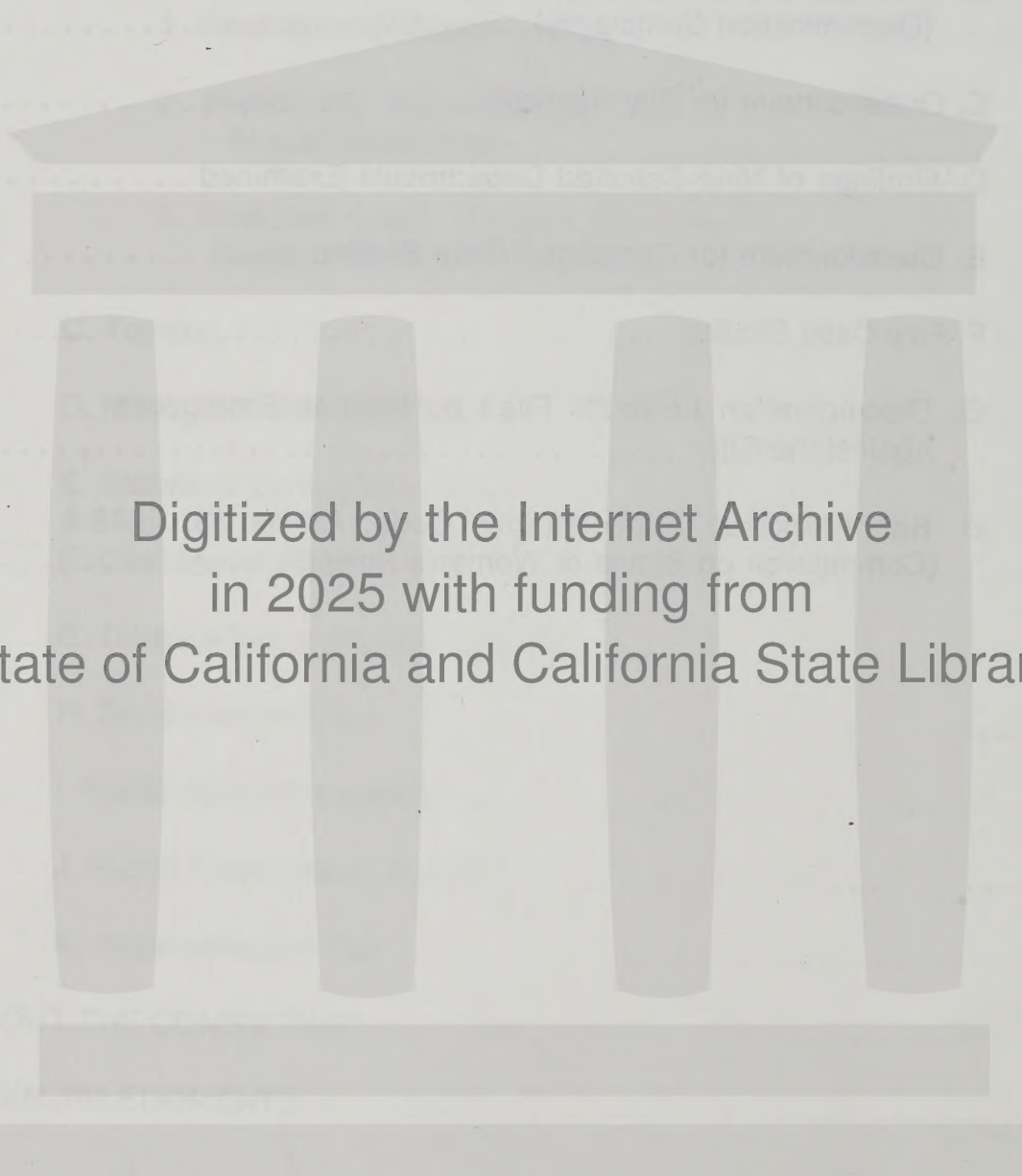
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I. INTRODUCTION

This report examines the City and County of San Francisco's (City's) statutes, policies and procedures for handling sexual harassment in the workplace and recommends changes for more effective management of the problem. The extent of sexual harassment within the City's workplaces was not studied for this report. However, available data indicates that the incidents of sexual harassment are significant, and consistent with the findings of numerous surveys and studies examining the extent of harassment in a range of occupations in both the public and private sectors.

Virtually every study and poll of the incidence of sexual harassment in the workplace, as well as educational institutions, demonstrate that harassment is widespread.¹ Generalizations are difficult because different methodologies and definitions of sexual harassment were used. Nevertheless, researchers concluded that fifty percent of women will be (or have been) sexually harassed at some point during their academic or working life.² Moreover, the numbers of complaints merely represents the tip of the iceberg. Few targets of harassment actually file complaints.³ More find the complaint process as lacking credibility, too slow, or fear retaliation or the risk of re-traumatization in the course of litigation.

The social and economic costs of sexual harassment are tremendous. Typically targets of sexual harassment suffer psychologically and physically, resulting in decreased productivity.⁴ Too often they also are forced to quit, or to take sick⁵ or unpaid leave, resulting in loss of income and opportunities. The impact on co-workers is often also profound and negative, resulting in decreased productivity and damage to collegiality.

The City and the people it serves likewise measurably are injured. In addition to such considerable costs of litigation, payment of settlements and court awards,⁶ the lost productivity hurts everyone.⁷

Some agencies and individual employees have made serious efforts to rectify the problems of workplace sexual harassment. Nevertheless, a number of changes and a more serious effort is needed to effectively redress the problems. Although sexual harassment, like other forms of harassment such as based on race, national origin or sexual orientation, is particularly insidious, it is best addressed within the context of a comprehensive anti-discrimination policy and procedure. Often sexual harassment is compounded by racial or other forms of harassment.⁸

The recommendations discussed later in this report are made recognizing the difficult fiscal situation confronting the City. To the extent that some recommendations may require the expenditure of additional funds, a more effective policy and procedure should result in significant savings in increased productivity, including decreased absenteeism and lower litigation costs. Moreover, fairness and justice in the workplace that creates an environment where women are encouraged to be fully contributing employees, ensuring the dignity which comes from work, is a critical value.

The City procedures and the individuals who implement them must be proactive, vigilant and effective. The rights of the targets of harassment and the accused must be protected and valued. An effective system should emphasize prevention and timely and effective redress when harassment occurs.

II. PURPOSE

The purpose of this report is to make recommendations to the City and County of San Francisco through the Mayor, Board of Supervisors and the Commission on the Status of Women. By requesting this focus on sexual harassment, the political leaders and City officials are acknowledging that sexual harassment is a problem which affects women, men, gay and lesbians and heterosexuals, and individuals of all ethnic backgrounds. The recommendations in this report focusing on sexual harassment are not meant to imply in any way that other forms of discrimination covered by City, State or Federal human rights laws are less important, or that they should not be treated with the same gravity as sexual harassment. The City's long-term objective must be to ensure that agencies will address all forms of discrimination with this same heightened sensitivity. The recommendations contained in this report represents a significant step toward that overall goal.

III. EXECUTIVE SUMMARY

Because sexual harassment and other forms of discrimination are generally not effectively and expeditiously investigated by the myriad of departmental EEO processes, many City employees file externally, resulting in the expenditure of City funds to defend the action (City attorney and managerial time), and often, additional funds to pay for settlements or court awards. During fiscal year 1992-1993, there were 201 formal complaints and 14 lawsuits filed by City female employees, the majority of which involved sexual harassment, costing \$1,623,548.

Other financial costs incurred by the City include lost productivity of the employees targeted for harassment. A 1993 study conducted by the

Governor's Task Force on Sexual Harassment in New York found that the average number of days missed by employees due to harassment was 9.74 days.⁹ A study of sexual harassment in the federal workforce, conducted by the U.S. Merit Systems Protection Board, concluded that sexual harassment cost the government \$267 million over a two-year period.¹⁰ A 1988 study of Fortune 500 companies found that sexual harassment cost a typical company \$6.7 million annually.¹¹

In the City departments sexual harassment policies, training to prevent harassment, and procedures to investigate and resolve complaints vary widely, and appear, at times, haphazard. It is costly financially and results in decreased employee morale and productivity.

A uniform policy and procedure administered by a centralized and professional EEO Unit with a specialized Sexual Harassment Office is essential to effectively address the problems of sexual harassment in the City workforce.

The principal recommendations focus on the following areas:

- ☐ Complaint Procedures
- ☐ Training
- ☐ Monitoring
- ☐ Discipline/Penalties
- ☐ Public School Education
- ☐ Public Awareness

• **Centralized EEO Unit With Specialized Sexual Harassment Office.** A primary and essential recommendation is the reorganization of the Human Resources Department, Equal Employment Opportunity Unit and the EEO functions now handled by individual agencies. The EEO officers in

the individual agencies should be under the direct supervision of the Human Resources Director and out-stationed in the agencies. There should be a specialized sexual harassment office within the EEO Unit. The EEO unit should be responsible for providing, in coordination with the City Commission on the Status of Women, an on-going comprehensive preventive training program for managers and line employees.

A centralized and coordinated effort is necessary to ensure a high quality and consistent training, and investigatory effort. The consultant recently learned that there is a proposal to decentralize further the EEO functions. Given the already disjointed and ineffective investigations and resolutions of complaints in most departments studied, this proposal would be a serious mistake.

- **Manager Accountability.** A second critical recommendation is the accountability of agency heads and managers for maintaining workplaces free from harassment. Managers should be evaluated annually for their effective implementation of equal employment opportunity within their command, with initial particular emphasis on harassment.

- **Training to Prevent Harassment.** Develop training programs for all managers, supervisors and employees with the goal of preventing harassment.

- **Discipline.** Uniform guidelines should be adopted to provide guidance that will assist in determining appropriate discipline and corrective action. An important deterrent to sexual harassment is a swift, fair policy for meeting out discipline and remedying injuries.

- **Gender Equity Curriculum.** Public schools should develop programs to teach and promote gender equity and respect.

IV. PRINCIPAL RECOMMENDATIONS

1) The Director of the Human Resources Department (HRD) should promulgate a regulation to reorganize the Human Resources Department, Equal Employment Opportunity Unit (EEO Unit), by creating a specialized sexual harassment unit to receive and investigate complaints and monitor and coordinate all matters pertaining to sexual harassment.

2) Further this Rule should direct that all Equal Employment Opportunity Officers (EEO Officers) be employees of the EEO unit and stationed at their assigned departments.

3) All department heads should appoint an appropriate official who reports directly to the department head and facilitates all EEO matters with the assigned EEO Officers and EEO unit central staff, including training and investigation. In addition, these officials should have primary responsibility for the implementation and monitoring of the agency's Affirmative Action Plan.

4) All EEO Officers and central staff should meet professional requirements set by the Human Resources Director, to ensure a high level of knowledge of EEO laws, City policies and procedures and investigatory skills. The City Attorney's Office should participate in training the investigators.

5) The Sexual Harassment Office, together with the EEO Training Unit, the Commission on the Status of Women, and the individual agencies should develop training programs on sexual harassment geared to the special needs of each agency. The EEO Training Unit should develop and maintain a resource library of training materials, including video tapes accessible to all departments.

6) The Human Resources Director, along with the Civil Service Commission, should develop a uniform set of policies and procedures, consistent with the special needs and mandates of individual agencies (e.g. Police) and the department heads should ensure that all of their employees are notified of the policy and procedure. The policy should be streamlined and understandable.

7) Civil Service Commission Rule 1.03.F should be amended to extend the period for filing EEO complaints, including sexual harassment, with an EEO Officer or the Sexual Harassment Office from thirty (30) days to one year, consistent with the California Department of Fair Employment and Housing (DFEH) statute of limitation. The Rule should require that employees be notified of their right to file with the EEOC and/or DFEH, and specify the time limit.

8) The HRD-EEO Unit should develop complaint procedures for handling EEO matters, including sexual harassment, both formal and informal, with specified time limits not to exceed 60 days to complete investigation of and resolve a case. Rule 1.03.F should be amended to include these time limits. Adhering to a 60-day time limit would be beneficial since some of the dissatisfaction expressed by employees involved in the process is the tremendous delays in the investigation.

9) The availability of mediation for resolving certain types of disputes should be an integral component of the Sexual Harassment Unit's handling of sexual harassment cases.

10) The Commission on the Status of Women should receive sufficient funding to establish a Sexual Harassment Counseling Office to:

- 1) provide counseling and/or referral to an appropriate employee assistance plan to assist targets of discrimination in coping with the

emotional injury associated with harassment; 2) act as an advocate on behalf of the target to ensure timely investigation and resolution of her complaint; 3) monitor the effectiveness of the training programs and complaint process. Two advocates and one support staff should be added to accomplish these tasks.

11) All City managers and supervisors should be held accountable for ensuring a workplace free of harassment. All managers and supervisors, as part of their regular evaluation, should be evaluated on their EEO performance, including sexual harassment prevention. Serious deficiencies should result in denial of salary increases and/or promotions or other disciplinary action. Managers and supervisors should be trained to report any incidents of sexual harassment that comes to their attention. The HRD Director should issue a directive to all department heads mandating such accountability and evaluation. The Police Department's Order D-17 gives notice to supervisors that they will be held accountable for "turning a blind eye," concealing a situation or failure to take action. Such a finding constitutes "negligent supervision," subjecting the supervisory officer to disciplinary action. The policy states that "[e]xcuses will not be accepted or tolerated if the investigation reveals that the supervisor knew or should have known about the harassment or discrimination." This type of policy should be applied to all City managers and supervisors.

12. Appoint a Task Force to develop procedures to ensure that appropriate discipline is imposed on the harasser, and ensure that when the harasser and complainant must be separated, it is not the complainant who is transferred out of her position. Penalties should include reprimand, suspension, probation, demotion, transfer, fine or termination.

13. In conducting background checks for new hires and promotions, just as departments would check personnel records for matters of discipline and the time and leave practices, the applicant or employee's record regarding discrimination in the workplace should be considered as well.

14. A task force should be established consisting of representatives from HRD, COSW, Human Rights, unions, community groups, women in uniform and blue collar positions to (1) provide input into revising Rule 1.03.F, (2) developing disciplinary guidelines, and (3) serve as an advisory group to the Sexual Harassment Office.

15. A task force consisting of representatives from the Mayor's Office, the HRD, and COSW should be convened to review the proposal and develop a management plan for (1) the organizational structures, (2) staffing, and (3) administration and budget. Preferably lines should be reallocated from the departments to the HRD, EEO Unit. Work order budgeting creates built-in conflicts of interest. Lastly, the City Attorney should draft regulations for the HRD Director establishing a centralized EEO system, with a specialized Sexual Harassment Office.

16) The City should conduct a public awareness campaign no less frequently than annually to inform the public about sexual harassment. One component should be to alert potential complainants to the importance of filing sexual harassment complaints in a timely manner.

17) The Mayor and Board of Supervisors should ask the Superintendent of Schools and the Community Colleges to develop programs and curricula for addressing issues involving sexual harassment in the City's educational systems. Education about what is and what is not acceptable behavior must begin in the schools.

V. LEGAL MANDATES AND IMPLEMENTING PROCEDURES

A. San Francisco Administrative Code, Section 16.9-25 Prohibiting Sexual Harassment

As an equal opportunity employer, it has long been the policy of the City government to develop policies and procedures to ensure that the workplace is free from all forms of discrimination. Section 16.9-25 of the San Francisco Code prohibits sexual harassment of City employees, directs that the complaint procedure established by the Civil Service Commission be used to review and resolve allegations of sexual harassment, provides for discipline consistent with applicable provisions in the City Charter, provides a "make whole" remedy to the complainant after a final determination, mandates a training program for supervisory personnel designed to educate with the goal of preventing harassment and makes available the offices of the Commission on the Status of Women and the Human Rights Commission to provide assistance upon request to any employee or applicant for employment. A copy of Section 16.9-25 is attached as Appendix "A."

In 1993, the City's voters approved Proposition L, amending various sections of the City Charter, and created a Human Resources Department (HRD) mandated to handle employment and personnel matters, some of which were previously done by the Civil Service Commission (CSC). The CSC maintains its power to establish by rule procedures to review and resolve allegations of discrimination. The EEO Unit previously part of the CSC is now part of the HRD, and is responsible for investigating complaints of discrimination.

The City also is required to meet the mandates of State and Federal human rights law, which is discussed below in sections VI, (C) and (D).

B. Civil Service Commission and Individual Agency Implementing Procedures.

Civil Service Commission Rule 1.03.F establishes a complaint procedure to review and resolve allegations of discrimination (including sexual harassment). Any employee or applicant may file a complaint concerning sexual harassment occurring in any agency, department or commission of the City. Some agencies utilize this procedure exclusively. Others maintain similar parallel procedures. Procedures at selected agencies are discussed in section VI and Appendix D. A copy of Rule 1.03.F is attached as Appendix "B."

1. Rule 1.03.F Procedure

Under the Rule 1.03.F procedure, a complaint may be filed by submitting a signed letter to the General Manager, Personnel within thirty (30) calendar days of the alleged harassment, specifying the reasons. The complaint is forwarded to the Human Rights Commissioner and each member of the Civil Service Commission and the EEO Unit is designated to investigate, mediate and resolve the complaint. Since the establishment of the Human Resources Department in 1993, the EEO Unit is now part of HRD.

The EEO Unit contacts the complainant and schedules an initial intake interview and completes the EEO complaint form. A copy of the complaint is then forwarded to the department against whom charges are made.

Within ten (10) days of this notification the EEO Unit is mandated to attempt voluntary conciliation between the department and the complainant. *There are no time limits for this mediation period.*

Upon failure to resolve the complaint through this initial voluntary attempt, the EEO Unit is required to conduct an investigation of the charges. *There are no time limits for the completion of the investigation.*

The investigation results in filing with a three person panel either an Investigative Report establishing that corroborative evidence exists to warrant hearing of the charges or a Recommendation of Dismissal specifying the reasons. It is unclear whether this procedure remains in effect. Deputy City Attorney Vicky Clayton interprets Proposition L as placing the decisionmaking function with the HRD Director.

There are no time limits for the scheduling of the hearing. Both parties are given at least ten (10) working days notice of the hearing. Written findings must be issued within thirty (30) calendar days of the conclusion of the hearing. A request for review to the Civil Service Commission of a Panel's dismissal determination or decision must be made within thirty (30) calendar days from the postmarked date of the Panel's action. The Civil Service Commission must render a decision whether it will review the matter within thirty (30) calendar days of the receipt of the request. If the Commission agrees to review the Panel's action, the matter is calendared. *There are no time limits for completing the granted review.*

2. Department Discrimination Complaint Procedures.

Where a Civil Service Commission approved department complaint procedure exists, an employee or applicant may choose to utilize the department procedure first or may directly complain to the Civil Service

Commission.¹² Procedures at nine selected departments are noted in Section VI. Where complaints are filed at both the Civil Service Commission and the department, the complaint is deferred to the department, unless the complainant indicates to the EEO Unit in writing within five (5) calendar days that she wants the department procedure to cease. If the complainant proceeds under the department's procedures, the complainant may file within ten (10) calendar days a request with the EEO Unit to reinstitute its procedures under Civil Service Commission Rule 1.03.F.

C. Federal Law -- Title VII of the 1964 Civil Rights Act

The Supreme Court of the United States in two unanimous decisions¹³ confirmed that there are two forms of prohibited sexual harassment under Section 703 of the Civil Rights Act of 1964, 42 U.S.C. §2000e-5: (1) *Quid pro quo* and (2) hostile environment sexual harassment. *Quid pro quo* harassment occurs when an employee is subjected to sexual advances or requests for sexual favors and the employee's submission to those advances is an expressed or implied condition for receiving job benefits, or the employee's refusal to submit to a supervisor's demands results in tangible job detriment. The harasser must be in a supervisory position or a position where he or she appears to have authority to hire and fire or otherwise affect an employee's terms and condition of employment.

Hostile environment harassment is established when the harassment affects a term, condition or privilege of employment. Showing that the alleged sex-based harassment is sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment

is proof that a hostile environment exists. Hostile environment harassment does not necessarily affect an economic aspect of a grievant's employment, but rather deprives the employee of the right to an environment free from discriminatory intimidation, ridicule and insult.

Proposed Guidelines by the U.S. Equal Employment Opportunity Commission (EEOC) and case law expand the doctrine of harassment to include gender harassment.¹⁴ In other words, explicit sexual language or acts are not necessary to prove prohibited harassment.

A City employee may file with the EEOC a charge of discrimination against the City within 300 days of the discriminatory act. The charge is deferred to the California Department of Fair Employment and Housing under a work-share agreement. After completion of an investigation or after 180 days have elapsed, the charging party has a right to receive a notice of a right to sue in federal court. The charging party then has ninety days to file suit in federal district court.

D. State Law

The key California statute prohibiting employment discrimination, including sexual harassment, is the Fair Employment and Housing Act (FEHA), Government Code Section 12900, et seq. The areas of employment discrimination prohibited by the FEHA include: race, religion, color, national origin, ancestry, physical and mental disability, medical condition, marital status, sex, age, and pregnancy, childbirth or related medical conditions. The FEHA applies to California employers, labor organizations, apprenticeship and training programs, employment agencies, and those who aid or abet in employment discrimination.

There are two administrative agencies under the FEHA: The Department of Fair Employment and Housing (DFEH) and the Fair Employment and Housing Commission (FEHC). The DFEH is responsible for receiving and investigating complaints. DFEH has a work sharing agreement with the EEOC, under which copies of all complaints received by one agency are also sent to the other for filing. The FEHC adjudicates complaints when the DFEH issues an "accusation" and it issues regulations interpreting the FEHA. Administrative complaints with the DFEH must be filed within one year of the alleged unlawful employment practice. When the DFEH issues a "right-to-sue" letter, a complainant has one year to file a civil court complaint under the FEHA.

For most types of employment discrimination claims, the FEHA covers private employers who regularly employ five or more persons, except that in harassment cases, employers regularly employing one or more persons are covered. The state of California and other public entities are not subject to the five-employee requirement.

VI. FINDINGS AND CASE STUDIES

The consultants examined the formal and informal policies and practices of nine City departments (also referred to as "agencies") to determine their effectiveness (See Section VI, A). Additionally, completed cases of five sexual harassment complaints were reviewed to include the perspective of actual complainants as to the effectiveness of the City complaint procedures and ways those procedures can be improved (See Section VI, B).

A. Nine Selected Departments Examined-- An Overview

The nine departments evaluated were chosen based on work force size, function, and the recent history of sexual harassment complaints. Most of the departments examined employed the largest share of the City workforce. However, one small agency was also reviewed. The nine departments included: (1) Airport Commission (1,074 employees); (2) Department of Health (6,000 employees); (3) Department of Recreation and Parks (900 employees); (4) Public Utilities Commission (5,000 employees); (5) Department of Public Works (1,923); (6) Department of Social Services (1,340 employees); (7) Police (2,232 employees); (8) Fire (1,594 employees), and (9) Planning (106 employees). Since the budget for this study was limited, these agencies were selected in part to reveal the range of procedures used by the City and not document each and every procedure.

The consultants developed a questionnaire (See Appendix "C") to guide the discussions with personnel in the various departments (hereafter these personnel will be referred to as EEO officers). In developing the questionnaire, information collected by the intern at the Commission on the Status of Women was reviewed. The interview questions cover a variety of subjects, but focus primarily on the areas found to be of most concern: (1) the identification of the written and unwritten policies actually relied on by the agencies; (2) the review of training materials and procedures; (3) the assessment of the strengths and weaknesses of the procedures for preventing and reporting sexual harassment complaints, and (4) the evaluation of the strengths and weaknesses in each agency's approach to minimizing sexual harassment.

The detailed results of this review are contained in Appendix D. The analysis of the three areas of inquiry mentioned above follows.

1. Analysis of Findings Concerning Identification and Dissemination of Written Department Policies

The content of the departments' written sexual harassment policies, as well as the methods for dissemination of such policies, vary widely among the departments and appear, at times, haphazard. There appears to be no systematic approach to ensuring that all employees receive sexual harassment materials. In addition, little or no information is being disseminated as to which behaviors may constitute sexual harassment. Most agencies merely distribute some version of Administrative Code section 16.9-25, which describes the discrimination complaint procedure but lacks any definitions or descriptions of harassing conduct. It therefore is not surprising that a majority of the EEO officers interviewed believe that their employees generally do not understand sexual harassment policies.

On the other hand, there are positive signs in some of the agencies. Most of the agency EEO officers recognize the need for new policies, and are revising their handbooks for distribution to all employees. This may result in clearer policies, and certainty that all employees have been informed of them.

2. Analysis of Findings of Department Sexual Harassment Prevention Training Programs

The agencies differ greatly in their financial and personnel resources, yet they are consistent in not providing regular across-the-ranks training in sexual harassment. At least three agencies do not

provide any mandatory training for line employees. Of these, at least two agencies provide EEO training to line employees through volunteer classes designed for employees seeking career advancement. Even the agency with the largest EEO staff and the greatest funding only provides training to line employees every five years, thereby necessarily excluding at any time a pool of employees with less than five years' tenure. In some agencies, "spot" training was provided on an ad hoc basis for departments with problems. Sometimes this training was given by the department EEO staff. In other cases, it was left to the line supervisor to provide the training, and there was no follow up by the department EEO office to ensure the fact of this training, much less its quality. The EEO officers interviewed largely believed that regular quality training would result in fewer sexual harassment claims, yet none of the agencies is providing it due, in some cases, to limited staff and funds. The most consistent training was given by the Fire Department, which is monitored by a U.S. District Court Monitor because of an Order of the Court resulting from a federal civil rights lawsuit.

One of the apparent solutions to this dilemma is the training provided by the Human Resources Department- EEO office, which has developed and given training programs in the past. Among six departments examined, however, this would not be a viable solution because the HRD-EEO staff either are not available, are too expensive and/or the training is considered inadequate. In fact, with the exception of two compliments paid to the training efforts of HRD-EEO staff member Collie Gaines, the majority complained that the HRD-EEO staff's training was too general, not tailored to each agency or had been a "fiasco." Because the HRD-EEO staff appears to be an ideal organization to provide consistent and

thorough EEO training to all City employees, and most City agencies believe they have no staff or funds to invest in such training, mass low-cost training by HRD-EEO appears to be a potential solution, and further analysis must be undertaken to pinpoint weaknesses in the HRD-EEO's performance and develop a program to enable its training staff to fulfill the needs of the City's agencies.

3. Analysis of Findings of Department Complaint Procedures.

There are two City-wide EEO complaint procedure requirements: Under Civil Service Commission Rule 1.03.F., all discrimination complaints must be filed within thirty calendar days of the alleged discriminatory action or the date the complainant became aware of the discriminatory action. Under San Francisco Administrative Code section 16.9-25, which is distributed by most agencies to employees, or at least to supervisors," a supervisory employee receiving a complaint of sexual harassment shall inform the Department Head of such complaint within three (3) working days. The Department Head shall inform, in writing, the EEO Unit, Civil Service Commission (now part of HRD), within five (5) working days." The EEO Unit and the departments are required to inform COSW. Although these rules or ordinances apply to all City agencies, only two of the nine agencies interviewed complied with them. Instead, most of the agencies set their own *ad hoc* reporting requirements, or ignored the requirements completely.

The failure to comply with the limitations period to complete the investigation is to wreak havoc with the expectations of prompt resolution of the accused harasser and the department involved, and to

create inconsistencies in the system that lead to uncertainty and lack of confidence in the process, which in turn might influence complainants to file outside the agency.

The three day reporting rule was endorsed as helpful by almost all of the EEO officers, yet only one EEO officer enforces it. This rule should be enforced because it ensures that experienced EEO staff is involved at the earliest stage of the complaint process. If a line supervisor or manager with little or no training (which could happen in view of the minimal training described above) is allowed to handle a sexual harassment investigation with no supervision or support from EEO experts, the inherently delicate situation could easily be mishandled. As the EEO officer who enforces the three day rule points out, she is able to decide early on whether the manager involved has the capability and knowledge to handle the specific situation, and to calibrate the measure of EEO staff involvement that will lead to the best result.

Another weakness is the absence of any guidelines by which departments can distinguish between informal and formal complaints. The definitions and treatments of informal complaints vary widely. Enforcement of the three day reporting rule also would ensure that the EEO officer is aware of all sexual harassment complaints, and can independently decide which complaints should be treated as informal, and resolvable by non-EEO employees, or formal, and afforded a full investigation and report by trained EEO staff.

Only three of the departments had limits on the length of the investigation. Adhering to a sixty-day limit would be beneficial since some of the dissatisfaction expressed by employees involved in the process is the time lag in the investigation. Another negative result of

prolonged investigations could be that if complainants are not informed of the deadlines for filing with state and federal agencies, and are lulled into complacency by a lengthy agency investigation, the complainants may have further claims against the City.

It should also be noted that Civil Service Commission Rule 1.03.F., which usually is distributed to City employees in its original legalistic form, is confusing to laypersons. It would be helpful to develop and distribute a streamlined version of it.

The skill level of the investigators varies greatly. In both the Fire and Police Departments, uniformed members of the departments are trained to conduct investigations. However, the Fire Department investigators are primarily responsible for other duties and the Police Department investigators remain for such a short duration that this fails to allow for much expertise. Over the last few years, this unit experienced almost a 100 percent turnover yearly, except for the unit head.

B. COMPLETED CASE STUDIES-- AN OVERVIEW

One aspect of this report involves case studies of selected sexual harassment complaints pursued by city employees. The COSW panel of experts identified for the consultants seven cases that had been resolved either through informal agency procedures, union grievance procedures, or litigation. In identifying the cases, the COSW panel sought to include cases that arose in a variety of different city departments, where complainants held both traditional and non-traditional jobs for women, and where a range of procedures was used to resolve the disputes.

Only completed cases were studied, to avoid compromising confidentiality during pending disputes. It was not the intent of the cases study review to identify particular complainants or to point to individuals who may have posed barriers to prompt and effective resolution of disputes. Rather, the goal was to include the perspective of actual participants as to the effectiveness of the city complaint procedures and ways that those procedures can be improved.

In addition to interviewing the complainants, efforts were made to interview attorneys, union representatives, city or departmental EEO personnel, and/or department managers involved in the underlying incidents. In some cases, there was cooperation from and discussion with many of the relevant personnel involved. In others, there was little or no response from parties other than the complainant. Evelyn Hogan-Jackson, HRD-EEO Unit Director, indicated that the victim's perspective fails to give fair credit to positive actions taken by the EEO Unit. A copy of the questionnaire developed by the consultants for interviewing the complainants and other persons is attached as Appendix "E."

Of the seven cases provided by the expert panel, one woman declined the interview, and a second agreed to be interviewed, but then was unwilling to discuss her individual case. The remaining five complainants cooperated fully, and provided detailed information about their experiences with the city's complaint procedures. In all but one case, the complainants expressed considerable discomfort in revisiting the painful incidents that caused them to bring the sexual harassment complaint. Despite their difficulty in discussing the disputes, the women stated that they agreed to participate in the hope that it would lead to improved

procedures and a less difficult process for women with similar claims in the future.

The case discussion and analysis provides anecdotal evidence of the experiences of selected complainants, and identifies common areas of concern raised by their experiences. It is not intended to be a systematic review of how harassment complaints are handled by the City.

Of the five cases reviewed, three complainants were in non-traditional jobs for women, one was a clerical worker, and one a professional city employee. Three of the five women are still employed by the city at the job site where the harassment occurred. One woman transferred to a different location because of the harassment, and one woman is no longer a city employee.

The goal of each woman at the outset of the complaint process was simply to remain a productive member of the workforce, in a non-harassing environment. Initially, none of the women was intending to litigate or seek monetary damages. Each woman expressed the view that she eventually pursued either a complaint or litigation only because she could not get a satisfactory resolution to the problem without doing so.

Both the clerical employee and the professional employee were assisted by their union representatives on the harassment complaint. In the case of the clerical employee, the harassment was particularly egregious, and a private attorney was also retained; the main role of the union was in working out a transfer out of the harassing environment. In the case of the clerical employee, the union was the key advocate for the complainant. In some cases, the women felt that their unions were part of the "old boys" network, more supportive of those responsible for the harassment, than of the complainants.¹⁵ Except for the case in which the

union representative played the key role in representing the complainant, the women sought assistance from outside advocates -- private attorneys, lay advocates with expertise in the civil service system, and/or the Commission on the Status of Women.

The nature of the harassment experienced ranged from egregious and explicitly sexual conduct (sexual advances, touching, gestures) to more general types of job harassment (unfair job assignments, sabotage of work equipment, abusive language) directed to the employee because she was a woman in the workforce. In several cases, the complainant and others felt that cultural differences between the complainant and the alleged harasser contributed to the problems in the workplace.

The case studies are set out in detail in Appendix F.

Suggestions From Complainants for Improvements in Sexual Harassment Complaint Procedures

The complainants and other parties interviewed made the following suggestions for improvements in sexual harassment complaint procedures:

- * Expedite the EEO complaint processes.
- * Develop procedures to ensure that appropriate discipline is imposed on the harasser, and ensure that when the harasser and complainant must be separated, it is not the complainant who is transferred out of her position.
- * Develop more "user-friendly" EEO complaint procedures, where the target of harassment feels her complaint is being taken and acted upon seriously.

- * Where a facility is large enough to justify the position, have a person on-site to deal with harassment complainants and to work with supervisory and management personnel in identifying sexual harassment problems.
- * Develop effective training programs for all staff, and monitor the quality of the training on an ongoing basis.
- * Have materials available that make clear to all employees what avenues they can pursue when a sexual harassment situation arises.
- * Identify community resources outside of and unaffiliated with City agencies, where women can go for counseling and advocacy in sexual harassment cases. Include within this a list of counselors and advocates from diverse racial, ethnic, and cultural backgrounds, so that women who may be uncomfortable speaking to managers or City EEO Officers will be able to get assistance in processing harassment complaints.
- * Provide adequate funding to EEO offices, the Human Rights Commission, and the Commission on the Status of Women, so that their monitoring and compliance functions are not dependent upon funding by work orders from individual departments.

VII. RECOMMENDATIONS

A. Reorganization of Human Resources Department EEO Unit As A Centralized EEO Complaint and Investigatory Process With a Specialized Sexual Harassment Unit

1. Human Resources Department, Equal Employment Opportunity Unit (EEO Unit)

In 1993, the citizens of the City and County of San Francisco through Proposition L created the Human Resources Department (HRD) which became responsible for many of the functions previously handled by the Civil Service Commission, including the EEO Unit. The EEO Unit is in a state of flux, with a number of proposed changes in structure and mission. For example, the Unit's sole training professional, Collie Gaines, was scheduled to be transferred, effective July 1, 1994 to the HRD's Management System Division where her training responsibilities will be expanded beyond EEO training to include other areas of management training. Other changes being considered include the decentralization of the EEO investigatory role, which is contrary to the primary recommendation of this report. Further decentralization will result in an even more ineffective system to prevent and resolve sexual harassment.

Currently, the EEO Unit is headed by Evelyn Hogan Jackson, Executive Director. In addition to the EEO training specialist whose transfer to another division was to be effectuated July 1, 1994, the Unit consists of 3.75¹⁶ professionals whose work includes: (1) investigating complaints of discrimination, including sexual harassment; (2) developing and revising procedures, such as responding to the City's obligations under the Americans With Disabilities Act; (3) advising other City department EEO Officers concerning EEO matters, and (4) as in past years, conducting

training classes and seminars for City employees on a range of EEO matters.

A number of these professionals complained that they had limited or no input into plans for restructuring the mission and work of the Unit. Each person interviewed appeared to have a different description of the Unit's goals. Morale appeared to be low and tension high among some staff members.

Since January, 1994 the training professional conducted only one training session for 30-35 managers at the Department of Social Services. EEO Officers in various departments complained that the EEO Unit was unavailable to provide training or resources for training on sexual harassment and other EEO matters.

2. Reorganization of EEO Unit

The Human Resources Department, Equal Employment Opportunity Unit's mission and organization should be restructured to centralize all equal employment opportunity complaint investigatory processes. All EEO Officers should be employees of the HRD and "outstationed" at the operating Departments. There should be an office within the EEO Unit that specializes in sexual harassment cases. Staff lines currently allocated for EEO positions at the individual departments can be reallocated to the HRD, EEO Unit. Supervisory investigators and the specialized sexual harassment office should be at a central location. Very small departments, such as the Department of Planning, should have EEO officers that maintain regular but part time hours at the departments and serve more than one small department. This should create both efficiencies in providing high quality investigatory processes and a savings in money.

All EEO Officers and central staff should meet professional requirements set by the Human Resources Director, to ensure a high level of knowledge of EEO laws, City policies and procedures, investigatory skills, and a sensitivity to the myriad forms of discrimination, including sexual harassment. The City Attorney should help train the investigators.

The current system, where each department maintains a separate EEO investigatory system, fails to provide consistent, effective and timely EEO investigation. Although some Department EEO complaint systems work better than others, the systems are costly, with, at best, mediocre results.

Most Department EEO investigatory processes lack credibility among line employees for a variety of reasons including:

1. Most investigatory processes take too much time to complete. The old adage, "justice delayed is justice denied," has a profoundly negative impact on employee morale. Investigations should be completed in sixty days.
2. Many Department EEO Units are perceived as protecting the interests of the Departments and managers, instead of providing fair and independent investigations. A thorough and fair investigation best protects the interests of the City and its operating departments. Internal resolution is in the interests of the target and City.
3. Departments utilize different procedures with different filing deadlines, and often the employees do not understand the various options both internally and externally.
4. The HRD, EEO Unit is perceived by many to be ineffectual.
5. The quality of investigation varies greatly from Department to Department. For example, the Police Department's uniformed EEO

investigators tend to remain with the unit for a short period of time. Last year all three investigators left after only one year. The year before the two investigators also remained only for one year. By the time they receive a minimum level of EEO training they transfer out of that unit. Replacing the uniformed investigators with civilian staff will also save the City considerable money in salaries. Most EEO complaints at the Fire Department are investigated by Assistant and Battalion Chiefs who received only eight (8) hours of training. Their primary job function is fire suppression. They simply are not skilled EEO investigators. Also, they are often called upon to investigate fire fighters with whom they began their careers and are their friends. At other Departments, EEO is not highly considered or well supported, resulting in a high turnover. For instance, at the Public Utilities Commission only one out of four positions is currently filled and then for a few months. In 1994 there were no EEO officers.

3. Saving City Money and Increasing Productivity

Because many of the Department's EEO Complaint processing is perceived as ineffectual it profoundly and negatively impacts the City. First, because sexual harassment and other forms of discrimination are not effectively and expeditiously investigated, many employees file externally, resulting in the expenditure of City funds to defend the action (City attorney and managerial time), and, too often additional funds to pay for settlements or court awards. For example, in May, 1993, the City settled a sexual harassment case (*Cannonnier v. City (police)*) for \$35,000. City attorney and other personnel costs were also expended. In an earlier sexual harassment case (*Colombano v. San Francisco Police Department*),

the City paid \$275,000 in settlement, plus life-long pension and health benefits. Including litigation costs, it was estimated that this case alone cost the City over \$1,000,000. In July, 1993 a sexual harassment case against the Fire Department was settled resulting in a settlement for the plaintiff of approximately \$85,000 (*Hodges v. SFFD*). Additionally, over \$71,000 in time and litigation costs were expended. Discrimination lawsuits filed by women against the City, and the settlement costs and pending monetary demands are contained in Appendix G. In fiscal year 1992-1993, litigation and other costs related to sexual harassment complaints amounted to \$1,623,548.¹⁷ Most targets of harassment are not particularly interested in monetary damages. They want early resolution of their complaint and for the harassment to cease.

These costs fail to include lost productivity due to absenteeism caused by emotional injury as a result of the harassment. A study conducted in New York State by the Governor's Task Force on Sexual Harassment revealed that the average number of days missed by employees due to alleged sexual harassment was 9.74 days.¹⁸ Further, even when the targets of harassment were at work, 89% of the complaints indicated that their work productivity was negatively affected by the incidents of harassment.¹⁹ Another cost was the payment of unemployment insurance benefits to those forced to resign by the hostile environment. The Governor's Task Force determined that on average the amount of unemployment benefits received by the 57% of those targets who left their jobs was \$7,446.²⁰ A study of sexual harassment in the federal workplace, conducted by the U.S. Merit Systems Protection Board, concluded that sexual harassment cost the government \$267 million over a two-year period.²¹

Of course, there are often other significant effects on the sexual harassment target, including medical and psychological problems and difficulties in relationships with family and friends.²²

Some will argue that Departments need to have their own EEO staff because it is necessary to understand the particular Department culture and personnel. That is important and can be accomplished by the daily physical presence in the particular department and close coordination with the Department Head and Affirmative Action Coordinator. More importantly, removing the EEO personnel from the payroll and employment processes of the departments, such as promotion, ensures the necessary independence and career line that results in more skilled investigators. It also results in a higher degree of confidential investigation.

The specialized sexual harassment unit can offer more expert assistance to the "field EEO officers" and in more complex or high profile cases can conduct the investigation.

4. Develop Uniform Policy and Procedure for Investigating EEO Complaints

The HRD Director, through the EEO Unit, should develop complaint procedures for handling EEO matters, including sexual harassment, both informal and formal, with specified time limits not to exceed sixty (60) days to complete investigation and resolve a case. Civil Service Commission Rule 1.03.F should be amended consistent with this new procedure streamlined and written in language understandable to City employees. The Rule also needs to conform to changes apparently caused by the approval of Proposition L in 1993. Deputy City Attorney Vicky Clayton, liaison to the EEO Unit, has interpreted the amendments to the

Administrative Code as placing the responsibility of deciding an EEO complaint on the HRD Director. One uniform EEO policy and complaint system should be developed and distributed. The requirement to report to COSW should be retained, including seeking assistance and input from COSW since their staff can act as advocates.

Both informal and formal processes should be included.

Complaints that are not resolved expeditiously guarantee failure of any EEO system. Complainants will simply take their complaints to the U.S. Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, and the state and federal courts. Most plaintiffs advocates advise their clients to bypass what they see as an ineffectual system. This fact significantly increases the City's costs.

B. ROLE OF THE COMMISSION ON THE STATUS OF WOMEN

1. Mandate and Mission

The Commission on the Status of Women (COSW) was created in response to the recognition that tradition and prejudice resulted in unequal economic, social, political and educational status for women.²³ In 1989, COSW was made an independent department charged with the responsibility of carrying out the mandates of City Ordinance #271-89 to ensure women equal rights and access to public services. The Ordinance emphasizes the continued need for COSW to:

monitor the status of women . . . to monitor complaints about unlawful and unequal treatment of women [emphasis added]

Further, Chapter 33 of the San Francisco Administrative Code, section 33.4(n) requires that COSW "investigate and mediate, at the

request of a party and within the limitations of staff time and resources, all incidents of discrimination against women" This chapter was amended in 1992 by increasing the monitoring and reporting system within COSW, particularly with respect to employment discrimination against women.²⁴ The amendments required, among other things, that the Civil Service Commission (now HRO-EEO Unit) make monthly reports to COSW regarding all complaints of employment discrimination. Additionally, the City Attorney's Office is required to submit a monthly report of settlements. Lastly, City departments must report monthly to COSW all employment discrimination complaints filed by female employees. A copy of Chapter 33 of the San Francisco Administrative Code, which sets out the duties and responsibilities of COSW, is attached as Appendix H.

2. Monitoring Results -- High Cost of Sexual Harassment

It is clear from the reports submitted to COSW that sexual harassment complaints have increased significantly in the last few years. In 1993 COSW received 240 sexual harassment calls from female City employees and in the first six months of 1994, 125 calls were received. Many of these women did not file formal complaints for a variety of reasons. Some indicated that they had little or no faith in the City's complaint process. Others stated that they were discouraged by the lengthy delay in the EEO complaint system. Some were concerned about confidentiality.

During the fiscal year 1992-93 there were 201 formal complaints and 14 lawsuits filed by City female employees, the majority of which

involved sexual harassment. The complaint and litigation costs were \$1,623,548.

3. Reduced Costs Through Effective Representation and Monitoring

The significant costs caused by sexual harassment can be substantially reduced with an effective EEO complaint system. Part of such a system is effective counseling and monitoring, both functions are already legally mandated by San Francisco Administrative Code, Chapter 33.

COSW should be given sufficient funds to establish a Sexual Harassment Counseling Office to (1) provide counseling and/or referral to an appropriate employee assistance plan to assist targets of discrimination in coping with the emotional injury associated with harassment; (2) act as an advocate on behalf of the target to ensure timely and thorough investigation and resolution of her complaint; (3) monitor the effectiveness of the training programs and complaint process.

Early proactive intervention by COSW staff will result in the savings to the City of millions of dollars. The addition of two (2) advocates and one (1) support staff is cost effective. By a minimal investment in prevention, the City can increase employee morale, service to its citizens in increased productivity by its employees, and savings in litigation costs. Currently there is only .75 of one person's time allocated to work on all employment and economic issues that affect women. At this staffing level, COSW simply cannot perform its mandated work.

C. TRAINING

Sexual Harassment prevention training must be provided to all workers in the City. These training programs should be made a permanent part of all new employee orientation and continuing education programs.

The Human Resources Department, EEO Unit, along with COSW, and the specific departments, should develop and conduct interactive training programs. A resource library should be developed to assist this effort, which would include purchasing and/or developing videos and other training programs. Outside consultants are available to assist in developing training modules, and training City trainers.

The single most effective way to prevent sexual harassment in the workplace is to provide all workers, from the leaders of organizations through entry-level employees, with effective training. Training is the only way to provide the information that employers and workers need to understand the problem, including overcoming myths, stereotypes and personal attitudes about sexual harassment; learning the guidelines for appropriate workplace conduct; communicating the City's commitment to the elimination of sexual harassment; and explaining the sanctions that will be imposed for acts of harassment.

Because of the uniquely difficult issue sexual harassment raises about sexuality, personal relationships and the abuse of power, training and education on sexual harassment prevention is particularly important. Research unequivocally demonstrates that sexual harassment problems decrease dramatically after sustained and effective training. Training eliminates the often raised defense to harassment that the accused "didn't know" that his or her conduct constituted harassment.

To be effective, sexual harassment prevention training programs must include certain key components. These components provide essential information and an atmosphere that enables individual to change their own behavior, if necessary, and influence the behavior of their co-workers or subordinates. The components include:

- * the legal basis for prohibiting sexual harassment under federal, state and local laws, regulations and ordinances;
- * the legal definition of sexual harassment and a description of behaviors that constitute sexual harassment;
- * the organization's policy prohibiting sexual harassment along with the internal complaint process available to all employees;
- * the legal recourse and complaint processes available at the local, state and federal levels, (e.g. local and state human rights divisions and EEOC);
- * the protections against retaliation available under city, state, and federal law; and
- * ample opportunity to clarify and information presented through question and answer periods, small group discussions and/or staged role playing situations.

In addition, supervisors and managers should understand that they have specific responsibilities as designated agents of the City. Therefore, these employees need specific training modules which include the key components and delineate their responsibilities for ensuring immediate and appropriate action in preventing sexual harassment and responding to complaints.

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- * the protections against retaliation available under city, state, and federal law; and
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In addition, supervisors and managers should understand that they have specific responsibilities as designated agents of the City. Therefore, these employees need specific training modules which include the key components and delineate their responsibilities for ensuring immediate and appropriate action in preventing sexual harassment and responding to complaints.

Curricula should be developed and delivered to meet the specific sexual harassment prevention training needs of particular workplaces, as well as for members of the various professions whose members work with populations which are more vulnerable to being harassed, play a role in preventing or identifying incidents of sexual harassment, adjudicate charges of such behavior, or assist victims of sexual harassment or those who harass. The training should be delivered as part of the regular in-service training program or professional continuing education program in each workplace.

In order to be most effective, training programs must be designed to address the specific issues raised by individual workplaces. While existing training programs educate employers and employees generally about what constitutes sexual harassment and how to prevent it, there are circumstances that are unique to individual workplaces that require different or additional information. Employees need information related to their particular work situations to help them specifically address topics such as their responsibility to protect students, clients or residents from sexual harassment or their right to be free of sexual harassment from students, clients or customers.

As the Equal Employment Opportunity Commission suggests:

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.

The EEOC's Proposed Guidelines on Harassment place employers on notice that they should take all necessary steps to prevent harassment from occurring including:

1. maintain an explicit policy against harassment that is clearly and regularly communicated to employees;
2. provide an explanation of sanctions for harassment;
3. develop methods to sensitize all employees on issues of harassment;
4. inform employees of their right to raise, and the procedures for raising the issue of harassment under Title VIII, the ADEA, the ADA and the Rehabilitation Act; and
5. provide an effective complaint procedure by which employees can complain to appropriate officials who have the authority to act.²⁵

D. MANAGERIAL ACCOUNTABILITY

All City managers and supervisors should be held accountable for ensuring a workplace free of harassment. All managers and supervisors, as part of their regular evaluation, should be evaluated on their EEO performance, including sexual harassment prevention. Serious deficiencies should result in denial of salary increases and/or promotions or other disrupting action. Managers and supervisors should be trained to report any incidents of sexual harassment that comes to their attention. The HRD Director should issue a directive to all department heads mandating such accountability and evaluation. The Police Department's Order D-17 gives notice to supervisors that they will be held accountable

for "turning a blind eye," concealing a situation or failure to take action. Such a finding constitutes "negligent supervision," subjecting the supervisory officer to disciplinary action. The policy states that "[e]xcuses will not be accepted or tolerated if the investigation reveals that the supervisor knew or should have known about the harassment or discrimination." This type of policy should be applied to all City managers and supervisors.

E. STATUTE OF LIMITATION

Under Civil Service Commission Rule 1.03.F, a City employee must file a complaint of discrimination within thirty (30) calendar days of the alleged harassment. Rule 1.03.F should be amended to extend the period for filing an EEO complaint with an EEO Officer or the Sexual Harassment Office to one year, consistent with the California Department of Fair Employment and Housing (DFEH) statute of limitation. An employee believing herself/himself to be a victim of sexual harassment faces a bewildering variety of time periods to preserve her/his rights. Many targets of harassment are reluctant to come forward with a complaint. The City should encourage the filing of internal complaints so that it can both deal with problems when they occur and discourage new problems by demonstrating its ability to expeditiously resolve problems. At the same time, the City should inform employees of the shorter time period provided for under federal law (300 days under Title VII of the 1964 Civil Rights Act).

F. CONFIDENTIALITY/RETALIATION

1. Confidentiality

Complaints involving discrimination/harassment are complex and require sensitivity in handling. For example, there are real fears regarding the issue of whether complaints or even informal inquiries and discussion can be kept confidential within a department setting. The consultant believes that a reorganized EEO Unit with a specialized Sexual Harassment Office will provide employees with a greater level of assurance that matters discussed will be kept in confidence. Discussing the matter in an independent setting offers a greater sense of confidentiality than meeting with an employee of the department.

Central to the success of any program is the assurance that if an employee comes forward, the information s/he provides will be kept confidential. Guidelines should state that "[e]very effort . . . be made to avoid the disclosure of the identity of parties and witnesses and information regarding a complaint of discrimination, except to those who have a need to know." This guideline should be expanded to explain more fully when information may be disclosed. For example, the following could be a guideline adopted by the HRD Director:

The persons charged with investigating sexual harassment should disclose information only to the extent necessary to (1) interview persons who may have relevant testimony, or (2) consult persons whose assistance is needed in order to recommend and implement appropriate corrective measures. In addition, even these persons should be given only as much information as is relevant to their ability to provide such testimony or assistance.

It should be made clear and included in all City and agency policies and procedures that the City encourages employees to report incidents of harassment, and will do everything in its power to maintain confidentiality and protect complainants from retaliation.

2. Retaliation

Management must inform all of its employees that retaliation is illegal, will not be tolerated and that appropriate action will be taken to address those employees involved in retaliation. The consultant suggests the following language should be added to City and department policies regarding the issue of retaliation:

Federal, State and local laws prohibit retaliation against any persons for making a report of sexual harassment, or for assisting in an investigation of allegations of unlawful discrimination. The City and this department will not tolerate such retaliation. Any person who believes that he or she is being retaliated against for having made a complaint about sexual harassment, or for having cooperated in an investigation, is urged to file a complaint. The complaint will be dealt with in the same manner as other complaints about unlawful discrimination. Any person found to have retaliated in violation of this policy shall be subject to discipline, which may include reprimand, suspension, probation, demotion, transfer, fine or termination.

The consultant also recommends that any clarification of the policies regarding confidentiality and retaliation also be included in the City policy statements regarding all forms of discrimination.

G. DATA COLLECTION/RECORD-KEEPING

Uniform record-keeping is essential if the City is to carry out its duty to prevent and redress sexual harassment to the maximum extent feasible. Moreover, special rules are necessary to govern sexual harassment record-keeping because of its unique nature. On one hand, accusations and investigations of sexual matters are especially personal and prone to stigmatize both victims and alleged harassers. Therefore, particular attention must be paid to confidentiality, which may necessitate limiting the number of locations in which copies of records are kept, and persons having access to those records.

On the other hand, for the very same reasons, sexual harassment frequently never reaches the stage of formal complaint, but is often resolved in informal ways--by mediation, counseling and voluntary "settlement" such as apology or removal of offending displays-- and hence often generates no records at all. Because sexual harassment is often a repeated offense, it is essential that attention be given to keeping records of all complaints and resolutions, and ensuring that agreements resulting from informal mediation provide that, in appropriate circumstances, records be kept and be made available to management personnel through the Sexual Harassment Office. Because employees move from department to department within the City, it is crucial that attention be given to ensuring that appropriate information is available when transfers and promotions are being considered.

Specific and uniform procedures should therefore be developed to govern when, where and for how long records should be kept concerning complaints (formal and informal) or observation of sexual harassment.

Specific and uniform procedures should also indicate who has access to these records, and indicate the type of information to be kept. In addition, uniform procedures should govern the manner in which the City tracks complaints, and the circumstances in which information is to be made public or to be shared between agencies.

Final procedures should be developed in detail through consultation among the COSW, HRD-EEO Unit, the City Attorney and the City unions. They should enable the City, through COSW, to record and track basic information concerning all complaints of sexual harassment, and to share with departments and, in appropriate circumstances, other personnel, the fact that a complaint has been lodged and an investigation is in progress, or the outcome of that investigation and follow-up, whether it results from formal or informal process. They should, at a minimum provide:

- 1) That when written or oral complaints of sexual harassment are made, or when sexual harassment is observed by management personnel, a record must be made containing, at a minimum: the names, positions (job title, agency of employment, etc.), addresses, telephone numbers and social security numbers of the complainant(s), victim(s), alleged harasser(s) and witness(es); the date, time and place (including agency and unit name) of occurrence; general nature of the complaint; and other plainly pertinent information (for example, concerning action taken by management personnel). In addition, statistical information regarding gender, race, sexual orientation, and disability should be tracked about the complainant, when applicable.

- 2) That all information, whether or not a formal complaint has been lodged, will be forwarded to the Sexual Harassment Office within a time period to be specified and also forward to COSW.
- 3) That the Sexual Harassment Office will be responsible for computerized tracking of complaints and will issue periodic reports of a general nature, indicating its interventions as well as those of the agencies. These data should continue to be monitored by COSW, which currently receives monthly reports required by Chapter 33, §33.4.
- 4) That the Sexual Harassment Office will maintain records of basic information regarding each complaint which is in the investigation, mediation, formal discipline or other stage, which shall be labeled and considered a confidential "ongoing investigation" file, accessible only to authorized personnel for specified reasons. The Sexual Harassment Office will maintain a second computerized set of records which details basic information and outcomes of complaints which have been resolved.
- 5) That guidelines will be expeditiously established to provide, on the one hand, that records of all reported incidents currently under investigation or being mediated shall be maintained and may be accessed under specified circumstances, and, on the other, that depending on the nature of the offense, records of certain types of less serious substantiated violations may, if no

further harassment complaints are lodged against the respondent, be expunged after a specified period of time. Expungement of records concerning violations which have been established after formal process shall be governed by applicable law or collective bargaining agreements, but the COSW, and HRD-EEO Sexual Harassment Office shall review and consult with the Unions as to whether modification of that an agreement is necessary or warranted for sexual harassment matters. Every effort will be made to ensure that, in mediation or informal resolution of sexual harassment matters, "settlement" shall in appropriate circumstances include maintenance of a record of the matter for at least the time period specified in the "expungement" guidelines.

- 6) That departments will check with the Sexual Harassment Office before making promotions or effectuating transfers of employees. The Office shall in consultation with the City Attorney, COSW, and HRD-EEO Unit, develop guidelines concerning the nature of the information to be provided, and its use. Information possessed by the Office which is a matter of public record (records of Civil Service Commission hearings and results; criminal records information on file where assault charges are lodged; information deriving from formal proceedings at the City Human Rights Commission or the State Department of Fair Employment and Housing) shall be provided upon request of any department or office. Information concerning ongoing investigations and mediations shall be

provided in accordance with applicable law and collective bargaining and the guidelines developed.

- 7) That the Sexual Harassment Office, together with HRD, EEO Unit and other appropriate bodies, will review existing rules governing maintenance and use of records in cases in which a charge is not substantiated after formal process for reasons other than a finding that the acts did not occur or the respondent was not responsible for them.

Background Checks

Just as a department would check personnel records for matters of discipline and the time and leave practices of potential hires, the employee's record (EEO file) regarding discrimination in the workplace should be considered as well.

All future employee promotions and transfers should include a routine check of the EEO database which will be maintained by the HRD-EEO Unit (including the Sexual Harassment Office). Upon request, the EEO Unit will refer the information directly to the department head for his/her consideration. The information released to the department head should be complete and uncensored.

The information contained in an employee's EEO file is, naturally, powerful. Precautions should be taken to ensure that EEO cases files/records are restricted to HRD-EEO Unit and Sexual Harassment Office staff, department personnel staff and department heads. Any employee who breaches this confidentiality will be subject to discipline. EEO records should be reviewed yearly; information regarding

unfounded/unsubstantiated complaints should be removed from the case file and the computerized tracking system after 12 months.

Any employee found to have falsely lodged charges will be subject to discipline.

H. DISCIPLINE/PENALTIES

When education and training fail to prevent sexual harassment, the best deterrent is a swift, fair policy for meting out discipline to sexual harassment offenders. If an harasser feels a very real threat that s/he will be disciplined--receiving a reprimand, losing pay, accepting transfer, suspension or even losing one's job--s/he will be much more likely to alter behavior or at least think seriously about the very real consequences before acting. Not only does discipline serve to discourage employees from unacceptable behavior but it substantiates the Administration's policy statements about the importance of maintaining a workplace free of discrimination.

The consultant has considered at great length whether there should be standards of discipline for sexual harassment cases. Opinion varies widely on this issue. However, there is widespread consensus that more attention than is currently given must be placed on disciplining persons found guilty of sexual harassment. Even when plaintiffs succeed after lengthy litigation, it is the City which is held financially liable and little is heard about or done to the person who actually may have been responsible for sexually harassing employee(s).

Failure to discipline the harasser sends a signal that this behavior is considered acceptable by the department. This also points to a failure of agency management to address issues of sexual harassment and their

failure to recognize that they are liable in these matters. One of the commonly stated views as to why employees fail to step forward and bring complaints is that they feel they will not be believed and, even if believed, that nothing will happen to the guilty party.

PROPOSALS

A Task Force should be appointed to develop a discipline and penalty guidelines for meeting out discipline to sexual harassment offenders. The Task Force should be comprised of representative from HRD-EEO Unit, COSW, the City Attorneys Office, the City Commission of Human Rights, Civil Service Commission, selected departments, and unions.

The consultant believes that there is a need to develop information that will provide guidance to agencies in determining what corrective action, including discipline, may be appropriate under the circumstances of each case. The information should include a summary of discipline and penalties recommended in decisions by the Civil Service Commission, the HRD Director, or imposed by department heads, other administrative bodies and courts in cases involving sexual harassment. The information should also include guidance as to what other actions may be necessary to make whole the person who experienced sexual harassment.

The information should include, at a minimum, the following:

- 1) A summary of discipline and penalties recommended in decisions by the Civil Service Commission, or imposed by department heads, other administrative bodies and courts in cases involving sexual harassment.

- 2) A description of factors that should be considered to determine what level of discipline should be imposed. Some of these factors include the type of sexually harassing behavior, the duration of the behavior, the level of authority of the persons involved, whether the person who has committed the harassing behavior has been found to have violated the City's policies on sexual harassment and other forms of unlawful discrimination on any prior occasion, and any other aggravating or mitigating circumstances.
- 3) Guidance as to what other actions may be deemed necessary to make whole the person who experienced sexual harassment. For example, if a supervisor has given an employee a poor evaluation because the employee refused the supervisor's sexual advances, the supervisor should be disciplined, and the employee's evaluation should be revised.
- 4) Information about the procedures a department must follow to impose discipline. Most employees are entitled to a hearing pursuant to the Civil Service Law and applicable provisions of collective bargaining agreements. However, it is sometimes appropriate for an agency to obtain an employee's agreement to waive any applicable right to a hearing, where the agency and the employee agree on the discipline that will be imposed.
- 5) The guidance should make clear that a department has the right to discipline an employee for violations of City policy against

sexual harassment, when an employee's behavior may not have been egregious enough to rise to a violation of law for which a court would impose penalties.

Once the guidance has been developed, the consultant suggests that the HRD Director issue a Directive to City agencies which indicates that they should consult this information to guide them in responding to all cases involving sexual harassment.

The consultant further recommends that, once the guidance has been developed, the City's EEO Policy be amended to include more information about the range of specific sanctions that can be imposed in sexual harassment cases. Those penalties include reprimand, loss of promotional opportunities, demotion, loss of pay, or termination.

The consultant also recommends that penalties imposed remain in the file of the person found guilty of the harassment for a five-year period.

A primary role of the Sexual Harassment Office will be to assist agencies in determining appropriate corrective actions, including discipline, to take in cases involving sexual harassment. It is, therefore, recommended that when a department head's handling of an employee's case results in discipline that is substantially less than what has been recommended by the Office or Civil Service Commission, the department head will be required to justify his or her action to both the HRD Director and the Mayor.

I. PUBLIC SCHOOL EDUCATION

The Mayor and the Board of Supervisors should request that the Superintendent of Schools and the Community Colleges develop programs and curricula for addressing issues involving sexual harassment and gender equity in the City's educational systems. Education about what is and is not acceptable behavior must begin in the schools.

There has been quite a bit of attention given lately to sexual harassment in schools. While some may take this issue lightly, it is clear that if children are not given guidance on what is and is not socially acceptable behavior, they will carry these attitudes with them into the workplace. With guidance, education and training it may be possible to begin to eliminate sexual harassment over the long-term. Early intervention in our educational system is the most effective form of prevention the City can offer.

In New York, Governor Cuomo's Task Force on Sexual Harassment included as one of its guiding principles the following: "Education on the issues of sexual harassment and gender respect must begin early, with school-age children, in order to prevent sexual harassment from occurring in the workplace. Early education also can contribute to the effort to provide students with an academic environment free from sexual harassment."

The consultant concurs with this principle. The consultant also believes that successful prevention efforts begin with education and training and that any ultimate, long-term solution to eliminating sexual harassment must begin in our schools.

J. PUBLIC AWARENESS CAMPAIGN

The consultant recommends that the City conduct an annual public awareness campaign about sexual harassment. Though sexual harassment has been illegal since 1964, only with greater public awareness and intense media attention has the issue emerged. It is important to keep this issue on everyone's minds and to remind employees of their rights and obligations. While not solely a women's issue, over 90% of the harassment that occurs is male to female. Therefore, it seems most appropriate that this issue become a regular part of outreach and attention during Women's History Month-- March of each year.

However, public awareness regarding sexual harassment should be an on-going effort and the consultant recommends that payroll inserts, posters and video presentations on the City's cable networks be part of the City's continued efforts to reduce discrimination in the workplace.

K. IMPLEMENTATION PLAN

A task force consisting of the Mayor's Office, the Human Resources Department, and the Commission on the Status of Women should be convened to review the proposal and develop a management plan for the following:

- ☐ Organizational Structure
- ☐ Staffing
- ☐ Administration/Budget

In addition, the City Attorney should immediately draft regulations for HRD establishing a centralized EEO system, with a specialized Sexual Harassment Office.

ABOUT THE CONSULTANT -- MERRICK T. ROSSEIN ASSOCIATES

Merrick T. Rossein is Acting Dean and Professor of Law at the City University of New York Law School at Queens College. He is the author of *Employment Discrimination Law and Litigation* (Clark Boardman Callaghan 1990). (Revised 1994, 2 vols.) He is a principal in Rossein/Greene Associates which consults and conducts training in sexual harassment and other equal employment opportunity areas (279 Central Park West, N.Y. New York 10024 (212) 886-4585). Kim E. Greene, the other principal, was Director of Governor Cuomo's Task Force on Sexual Harassment. Merrick T. Rossein has litigated many discrimination cases, including the landmark sexual harassment case of *EEOC v. Sage Realty Corporation*. He has been a consultant on equal employment opportunity to private sector employers, the Greater London Council, the Working Women's Institute, and the City of New York, for whom he drafted its affirmative action plan. Mr. Rossein has served on the executive committee of New York State Bar Association section on labor and employment, was appointed by New York Governor Mario Cuomo to the Task Force on Sexual Harassment where he co-chaired the Law and Regulation Committee, serves as a commissioner of the New York City Equal Employment Practices Commission and serves as an arbitrator on the New York State Human Rights panel.

Professor Rossein was assisted by Marci Seville and Elise Clowes. **Marci Seville** conducted the five completed case studies. She is Associate Professor of Law, Golden Gate University Law School, where she is the Director of the Women's Employment Rights Clinic. Previously, she practiced labor law for ten years as counsel for the California School

Employees Association, worked for the California Department of Industrial Relations, and served as counsel to the California Industrial Welfare Commission. She also spent several years in private practice with an emphasis on employment discrimination litigation. Professor Seville taught labor law as an adjunct professor at New College Law School from 1979 to 1985. She is a contributing editor to California Public Sector Labor Relations (Matthew Bender, 1989 edition) and Employee and Union Guide to Labor Law (Clark Boardman, 1983 edition) and wrote the chapter on the Family Medical Leave Act contained in Professor Rossein's book.

Elise Clowes examined the policies and procedures at seven selected departments. She is a 1982 graduate of the Boalt Hall School of Law, University of California. From 1984 through February 1993, she was an attorney in the Labor Department of the San Francisco law firm of Heller, Ehrman, White & McAullife, representing management. Most of her work consisted of labor-related litigation, including discrimination lawsuits. She acted as lead attorney in all phases of labor litigation, including sexual harassment. She also counseled clients on a variety of labor issues, such as sexual harassment and other nondiscrimination policies and procedures, employee handbooks. Further, she trained management and line employees in maintaining a discrimination-free workplace.

ACKNOWLEDGMENTS

The consultant, Merrick T. Rossein Associates, is grateful to all the individuals who offered their time and expertise to this important effort. Particular thanks goes to Judith Klain of the Commission on the Status of

Women for her consistent facilitation of this project. Members of the Experts' Panel provided important advice and encouragement. They include Caryl Ito, President, Commission on the Status of Women; Aleeta M. Van Runkle, Deputy City Attorney; Francis Pinnock, Attorney; Wendell Pryor, Director, Human Resources Department; Evelyn Hogan-Jackson, Director, EEO Unit, HRD; Commissioner Louette Colombano (COSW), Ginette Geer, Intern (COSW).

Students in the Women's Employment Rights Clinic, Golden Gate Law School, made valuable contributions in preparing the five completed case studies. They include, Ann Blessing, Graduate Fellow, Ann Maley, Maryann Malek, Olivia Wein, Nancy Beninati, Stacy Camillo and Monica McCrary.

Many City employees, too numerous to mention by name, gave generously of their time in the process of developing information. The dedication of many EEO professionals contributed significantly to the City's effort to provide equal employment opportunities.

Linda Jofuku, Representative of the International Federation of Professional and Technical Engineers Local 21, AFL-CIO, provided useful insight into some of the problems of sexual harassment, particularly from the union and individual perspective.

My colleagues on the Governor's Task Force on Sexual Harassment and the Mayor's (NYC) Sexual Harassment Report Steering Committee contributed to many of the ideas and proposals in this report, including Judith Avner, Director of the N.Y.S. Division for Women; Martha Baker, formerly Director of the N.Y.C. Commission on the Status of Women, and J. Otis Cochran, formerly N.Y.C. Deputy Personnel Director, EEO.

Last, the Mayor, Frank N. Jordan has given his support and cooperation in making, as he wrote to department heads, "this important study a successful one."

Merrick T. Rossein
August 1994

¹ See Governor's Task Force on Sexual Harassment, *The Incidence and Prevalence of Sexual Harassment in Workplaces and Educational Institutions* (Chapter 4) in Building A Consensus For Change, Final Report Submitted to Governor Mario M. Cuomo (1993) at 29-44 (collecting studies).

² M. Paludi and R. Barickman, *Academic and Workplace Sexual Harassment: A Resource Manual*, State University of New York Press (Albany 1991). The first study of sexual harassment to utilize scientific statistical analysis was conducted by the U.S. Merit Systems Board in 1981, which was updated in 1987. It found that forty-two percent of female federal employees experienced some form of sexual harassment. See, Sexual Harassment in the Federal Government: An Update (U.S. Merit Systems Protection Board, June 1988) (Sexual Harassment Update). The United States Merit Systems Protection Board in 1987 sent questionnaires to 13,000 federal workers. Responses were received from 8,523. Forty-two percent of the women and 14 percent of the men reported that they had experienced some form of unwanted sexual attention between 1985 and 1987. The report found that the term "sexual harassment" has different meanings for different people. Unwanted sexual teasing or remarks were reported by 35 percent of the women and 12 percent of the men. Pressure for sexual favors was reported by 9 percent of the women. In an earlier survey from a sample of women employed by the State of Illinois, 59 percent of the 1,495 women who responded to a questionnaire reported one or more incidents of unwanted sexual attention that made them feel humiliated or threatened. See also, *Testimony of Barbara Hayler, Member of Illinois Task Force on Sexual Harassment in the Workplace and Assistant Professor, Sangamon State University, before the Illinois House Judiciary II Committee* (Mar. 4, 1980). The 1987 study reported virtually the same results.

Dr. Barbara Gutek, in her landmark 1985 study found that approximately half the civilian female workers polled in random telephone interviews had experienced sexual harassment. B. Gutek, *Sex and the Workplace* (1985). Moreover, women of all ages, levels of education, occupations and income levels were targets of harassment. However, divorced, separated or never married women were more likely to be harassed than married and widowed women.

No occupation or profession is immune to sex harassment. For example, a 1993 survey of nearly 800 women and men attorneys from large law firms in fourteen major cities reported that fifty-one percent of the women experienced sexual harassment on the job. Weidlich and Lawrence, *Sex and the Firms: A Progress Report*, The National Law Journal (December 20, 1993) at page 1, col. 1. The 90-question, 14-page survey was developed by a consulting firm and mailed to 4,500 lawyers. To compensate for differences in response rates of men and women to research surveys, 2,800 questionnaires were sent to male lawyers and 1,700 to female lawyers. Male respondents provided 353 surveys and female respondents provided 415 surveys, a statistically valid sample. See also, *The Effects of Gender in the Federal Courts, The Final Report of the Ninth Circuit Gender Bias Task Force* (1993). This 1993 survey of women lawyers practicing in the federal court covered by the nine western states covered by the U.S. Ninth Circuit Court of Appeals found that 60% of the respondents had

experienced sexual harassment. Forty percent by clients, 33% by male colleagues, and 6% by judges. In Angel, *Sexual Harassment by Judges*, 45 U. Miami L. Rev. 817 (1991). Sixty-nine percent of the female lawyers surveyed believed that sexual harassment exists in their firms, while forty-three percent of the men considered sex harassment a problem in their firms. In a similar 1989 survey conducted for the *National Law Journal*, 44% of females said sexual harassment occurred in their firms. "It may also be that women A third of the respondents had witnessed sexual harassment at their firms. *Id.*

Other surveys, reports and polls reported high incidents of sexual harassment in a variety of professions and occupations including executives, the military, religious institutions, physicians, journalists, blue-collar trades, and communications. Re executives: See National Association of Female Executives and *Esquire Magazine* (Nov. 1992) (53% of 1,300 members polled in 1992 had been, or knew someone who was, sexual harassed by someone "in a position to control or influence" their careers); Korn/Ferry International & the Anderson Graduate School of Management at UCLA, *Decade of the Executive Woman* (1993) (a survey of 400 top female executives conducted by the UCLA Graduate School of Management found that two-thirds of the respondents had been sexually harassed). Re military: See, *The New York Times* (Sept. 12, 1991), *Two Out of Three Women in Military Study Report Sexual Harassment Incidents*, at A22; *Parade Magazine* (Nov. 17, 1991), *Sexual Harassment: Gender Gap on Capitol Hill*, at p. 8 (random telephone poll found that 70% of military women said that they had been sexual harassed, as did 50% of women who worked in Congressional offices). Re religious institutions: See Frankel, *Bared Buttocks and Federal Cases*, in *Society*, at pp. 4-7 (survey conducted by the United Methodist Church found that 77% of its clergy women had experienced incidents of sex harassment; 41% named a pastor or colleague as perpetrator; and 31% mentioned church social functions as the settings). Re physicians: *The New York Times*, *Many Doctors Tell of Sex Harassment in Training* (Feb. 4, 1993), at A14 (a 1993 survey of young doctors at a California medical school, and published in *The New England Journal of Medicine*, found that three-fourths of the women respondents and one-fifth of the men believed that they had been sexually harassed). Re journalists: See Beasley and McAdams, *Sexual Harassment of Women Accredited to the Daily Congressional Press Galleries of the U.S. Capitol*, in the *Newspaper Research Journal* (forthcoming) (60% of respondents reported that they experienced sex harassment; 40% by co-workers; 40% by story sources). Re blue-collar trades: See Gold, *The Sexualization of the Workplace: Sexual Harassment of Pink, White and Blue Collar Workers*, Paper presented at the annual conference of the American Psychological Association (1987). Re communication: See Advertising Women of New York, Inc., *The AWNY Report* (May 7, 1993) (in a 1993 poll, almost 50% of respondents stated that sexual harassment is a "very serious problem" in business today, compared to 29% of men; 35% reported personal experience at work, including 39% of women in broadcasting, 37% of women in publishing, and 28% of women in advertising. Previous studies in blue-collar and predominantly male occupations found similar results. See White and Moore, *Sexual Harassment in the Coal Industry: A Survey of Women Miners, Coal Employment Project* (1991) (17% of women coal miners reported physical attacks; 53% reported propositions from their bosses; 76% reported propositions from co-workers); Gold, *The Sexualization of the Workplace: Sexual Harassment of Pink, White and Blue Collar Workers*, Paper presented at the annual conference of the American Psychological Association (1987); Lafontaine and Tredeau, *The Frequency, Sources, and Correlates of Sexual Harassment Among Women in Traditional Male Occupations*, in *Sex Roles*, at 433-442 (1986) (employed in male-

populated occupations such as engineering and management); Gruber and Bjorn, *Blue Collar Blues: The Sexual Harassment of Women Autoworkers*, in 9 *Work and Occupation*, at 271-298 (1982).

The incidents of sexual harassment in workplaces that have traditionally excluded women appear to be even greater than in workplaces with significant numbers of women. For example, a 1989 study examined a sample of one hundred women employed in either traditional or non-traditional occupations and concluded that high levels of sexual harassment are associated with having low numbers of women in the work group. Baker, *Sexual Harassment and Job Satisfaction in Traditional and Non-traditional Industrial Occupations*, Unpublished doctoral dissertation, California School of Professional Psychology (1989). See also, The New York Times, *Sexual Harassment: It's About Power, Not Lust* (Oct. 22, 1991) (interview with Dr. Baker about her study). ("The more non-traditional the job for women, the more sexual harassment. Women surgeons and investment bankers rank among the highest for harassment.")

Little research exists on the incidence of workplace and academic harassment targeted at persons of color. See, Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *Stan. L. Rev.* 581, 592 (1990) (arguing that most scholarship about sexual harassment excludes the experiences of women of color). However, initial preliminary research and anecdotal evidence suggest that women of color experience sexual harassment more frequently than white women. See Paludi, *Ethnicity, Sex and Sexual Harassment*, in 8 *Thought and Action: The National Education Association Higher Education Journal* (1993) at 105-116. But see, Gutek, B., *Sex and the Workplace* (1985) at 56. ("Minority women are not particularly more vulnerable to sexual harassment than Caucasian women.") Another researcher found that "[t]he images and perceptions of women of color also increases their vulnerability to harassment." DeFour, *The Interface of Racism and Sexism on College Campuses*, in M.A. Paludi (ed.) *Ivory Power: sexual harassment on Campus* (1990) ("These images either portray the women as weak and thus unlikely to fight back if harassed, or they are perceived as very sexual and thus desiring sexual attention. Hispanic women have been described as hot-blooded . . . Asian women have been described as . . . submissive. However, they are also viewed by some as the exotic sexpot who will cater to the whims of any man.") See also, Crenshaw, *Whose Story Is It Anyway?* in T. Morrison (ed.), *Race-ing Justice, Engendering Power*, at 412 ("while black women share with white women the experience of being objectified as "cunts," "beavers," or "pieces," for them those insults are many times prefaced with "black," "nigger" or "jungle").

Since the Anita Hill-Clarence Thomas Senate hearings, a number of nationwide polls also indicated that sexual harassment remains a widespread phenomenon. See, e.g., New York Times/CBS Poll, *The New York Times, Sexual Harassment at Work is Pervasive, Poll Suggests* (Oct. 11, 1991), at p. A1 (38% of female respondents said they had been subjected to *quid pro quo* harassment); Washington Post/ABC Poll, *Albany Times Union, Public Redefines Sex Harassment: Majority Views Harassment as a Workplace Problem* (Oct. 14, 1992), at p. A1 (85% of men and women respondents said sexual harassment is a problem, an increase from 74% immediately after the October 1991 hearings on the confirmation of Clarence Thomas). But see Roper Poll, *The Roper Organization Report*, 92-1 (Mar. 1992) (workplace harassment is not common).

Lastly, the incidence of sexual harassment among girls and women in educational institutions is disturbingly similar to that of women in the workplace. In 1993, two surveys found rampant sexual harassment in elementary and secondary schools. The Center for Research at Wellesly College found that 39% of the respondents reported being harassed on a daily basis during the last year. Stein, Marshall and Tropp, *Secrets*

in Public: Sexual Harassment In Our Schools, Center for Research on Women, Wellesley College (1993). The survey was conducted by means of a questionnaire published in *Seventeen* magazine. Over 4,200 girls, ranging in age from 9-19 responded in grades 2-12. Eighty-nine percent were Caucasian. A second survey conducted by Louis Harris and Associates for the American Association of University Women Foundation found that "[s]exual harassment in school is an experience common to the vast majority of 8th to 11th grade students in American public schools." American Association of University Women Educational Foundation and Louis Harris & Associates, *Hostile Hallways: The AAUW Survey on Sexual Harassment in America's Public Schools*, AAUW Educational Foundation, Washington, D.C. (1993). Earlier studies confirmed that sexual harassment is widespread at the college level and graduate level. See, e.g., B.W. Dzach and L. Weiner, *The Lecherous Professor: Sexual Harassment on Campus* (1984); Bailey and Richards, *Tarnishing the Ivory Tower: Sexual Harassment in Graduate Training Programs*, Paper presented at the annual conference of the American Psychological Association (1985); M. Bond, *Division 27 Sexual Harassment Survey: Definition, Impact and Environmental Context*, in the *Community Psychologist*, Vol. 21 (1988); Fitzgerald, Shullman, Bailey, Richards, Swecker, Gold, Ormorod, and Weitzman, *The Incidents and Dimensions of Sexual Harassment in Academic and the Workplace*, *Journal of Vocational Behavior*, Vol. 32 (1988).

³ Although sexual harassment is widespread and pervasive in the American workplace, women hesitate to file formal complaints either through employer's internal grievance procedures or with governmental fair employment agencies such as the EEOC. However, the number of filings increased significantly since 1991 and are likely to rise. The number of filings with the EEOC and state fair employment practice agencies went from 6,127 in 1990 (5.4% of all charges) to 11,908 in 1993 (8.3% of all charges). EEOC Data Summary Reports. The Washington, D.C.-based Women's Legal Defense Fund indicated that only 5% of harassment victims actually report it. Weidlich and Lawrence, *Sex and the Firms: A Progress Report*, *The National Law Journal* (Dec. 20, 1993), at A1 (interview with Helen Norton, Deputy Director). Various surveys and studies report a higher percentage of women reporting the sexual harassment. See *New York Times/CBS Poll*, infra note 3 (one-tenth of women who experienced sex harassment reported it); National Association of Female Executives, infra note 3 (36% reported harassment).

⁴ Crull, *Sexual Harassment and Women's Health*, in *Double Exposure: Women's Health's Hazards on the Job and Home* (W. Chavkin ed. 1984) 100.

⁵ See *Sexual Harassment: Building A Consensus for Change*, the Governor's Task Force on Sexual Harassment, New York, 1993 at 59.

⁶ See Appendix F.

⁷ A study of sexual harassment in the federal workforce, conducted by the U.S. Merit Systems Protection Board, concluded that sexual harassment cost the government \$267 million over a two-year period. *U.S. Merit Systems Protection Board, Sexual Harassment of Federal Workers: An Update*, U.S. Government Printing Office (1987). A 1988 study of Fortune 500 companies found that sexual harassment cost a typical company \$6.7 million annually. Klein Associates, Inc., the *1988 Working Women Sexual Harassment Survey Executive Report* (1988). A 1993 study found that the

average number of days missed by employees due to sexual harassment was 9.74 days, Governor's Task Force on Sexual Harassment, *Sexual Harassment: Building A Consensus for Change*, Final Report Submitted to Governor Mario M. Cuomo (1993).

⁸ See *Compound Discrimination -- The Intersection of Race and Gender* (Chapter 30) in M. Rossein, *Employment Discrimination Law and Litigation* (Clark Boardman Callaghan 1994).

⁹ Governor's Task Force on Sexual Harassment, *Sexual Harassment: Building a Consensus for Change*, Final Report Submitted to Governor Mario M. Cuomo (1993).

¹⁰ U.S. Merit Systems Protection Board, *Sexual Harassment of Federal Workers: An Update* (1987).

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¹² See Rule 1.03.F (F) (10).

¹³ See *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); *Harris v. Forklift Systems Inc.*, 114 S. Ct. 367 (1994). See also the U.S. Equal Employment Opportunity Commission's Sexual Harassment Guidelines, 29 C.F.R. §1604.11 (1993). For a comprehensive examination of federal statutory and case law development, see M. Rossein, *Employment Discrimination Law and Litigation*, Chapter 6 (Clark Boardman Callaghan, 2 vols. 1990, Revised 1994).

¹⁴ 58 F.R. 51266 (Oct. 1, 1993).

¹⁵ When a case involves harassment by a co-worker, who is member of the same bargaining unit as the complainant, the union does face a potential conflict in representation. Although recommendations for internal action by collective bargaining representatives is outside the scope of this study, unions - and particularly those representing women in non-traditional jobs - would be well advised to develop procedures for equitable representation of both the harasser and the complainant in sexual harassment cases.

¹⁶ One professional works three-quarter time.

¹⁷ See, COSW, San Francisco City and County Discrimination Complaints Filed By Women.

¹⁸ See *Sexual Harassment: Building a Consensus for Change*, The Governor's Task Force on Sexual Harassment, New York 1993 at 59 (Governor's Task Force).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *U.S. Merit Systems Protection Board, Sexual Harassment of Federal Workers: An Update*, U.S. Government Printing Office (1987).

²² See Crull, note 4 , and note 5 Governor's Task Force at 59.

²³ See, "Report of the Mayor's Task Force on the Commission on the Status of Women," 1 San Francisco, 1989.

²⁴ See, San Francisco Ordinance No. 64-92, 1992 amending San Francisco Administrative Code, §§ 33.4(r)-(t), and 33.10(b) and adding §33.10(c) and (d).

²⁵ See 58 F.R. 51266, 51269 (Oct. 1, 1993) (to be codified at 29 CFR §1609) (covers gender harassment, in addition to race, color, religion, national origin, age or disability; sexual harassment covered by 29 CFR §1011.4).

APPENDIX A

San Francisco Administrative Code §16.9-25

SEC. 16.9-25. PROHIBITING SEXUAL HARASSMENT OF CITY EMPLOYEES; ESTABLISHING A COMPLAINT PROCEDURE; PROVIDING FOR REMEDIES FOR PERSONS WHO HAVE BEEN FOUND TO BE VICTIMS OF SEXUAL HARASSMENT INCLUDING THE SETTING ASIDE OF DISCIPLINARY ACTION AGAINST THESE PERSONS; REQUIRING THE IMPOSITION OF DISCIPLINARY ACTION AGAINST PERSONS VIOLATING THIS SECTION; REQUIRING DISTRIBUTION OF THE POLICY; INTERPRETATION. (a) Sexual harassment of a City employee or applicant for employment by a City official or employee is prohibited.

(b) Behavior which constitutes sexual harassment by City officials and employees includes, but is not limited to:

- (1) Verbal harassment, e.g., epithets, derogatory comments or slurs;
- (2) Physical harassment, e.g., assault, impeding or blocking movement, gestures, or any physical interference with normal work or movement;
- (3) Visual forms of harassment, e.g., derogatory posters, letters, poems, graffiti, cartoons or drawings; or

(4) Requests for sexual favors or unwanted sexual advances; when the foregoing behavior unreasonably interferes with work performance, creates an intimidating, hostile or offensive working environment, influences or affects the career, salary, working conditions, job, or other aspects of career development of an employee or prospective employees, or is an explicit or implicit term or condition of employment.

(c) For the purpose of this Section, the following behavior by City officials and supervisory employees also constitutes sexual harassment:

(1) Failing to take corrective action when the officials or supervisory employees know, or reasonably should know, that an employee in the line of supervision of the officials or supervisory employees is being subjected to prohibited sexual harassment on the job by anyone; or

(2) Retaliation against an employee or applicant for employment who complained of sexual harassment, or who testified on behalf of one who made a complaint, or who assisted or participated in any manner on behalf of a complainant in an investigation, proceeding or hearing conducted under this Section.

(d) A supervisory employee receiving a complaint of sexual harassment shall inform the department head of such complaint within three working days. Upon receipt of such information the department head shall inform, in writing, the Equal Employment Opportunity Unit of Civil Service within five working days. Within five working days after receiving notice of a complaint, the Civil Service Commission shall report that complaint to the Commission on the Status of Women. The Civil Service Commission's reports to the Commission on the Status of Women shall not contain information identifying the parties involved in the events giving rise to the complaint, but shall include all other relevant details. The Civil Service Commission shall report the outcome of each complaint to the Commission on the Status of Women promptly after the complaint is resolved. The Civil Service Commission shall annually report to the Board of Supervisors, the Mayor, the Human Rights Commission and the Commission on the Status of Women the number of claims filed, the number of claims pending, the departments in which claims have been filed and such other information the Commission determines necessary regarding problems in enforcement under this section.

(e) The discrimination complaint procedure established by the Civil Service Commission pursuant to Section 3.661(c) of the Charter shall be used to review and resolve allegations of sexual harassment. The determination reached under the Civil Service Commission procedures shall be final and shall forthwith be enforced by every employee and appointing officer.

(f) During any hearing on a complaint of sexual harassment, evidence of the sexual conduct of the complainant offered to attack the credibility of the complainant shall be permitted only as provided in the Civil Service Commission Hearing Procedures and with the express approval of the Civil Service Hearing Panel.

(g) Upon a finding that a City official or employee has engaged in prohibited sexual harassment as defined herein against a City employee or applicant for employment, the City official or employee shall receive disciplinary action up to and including demotion or dismissal in accordance with the applicable provisions in the Charter. A statement of those findings, of the disciplinary action taken, and of any final determination of subsequent acts of sexual harassment shall be made a

part of the employee's personnel file and shall be included in the employee's performance evaluation.

(h) Whenever a final determination is made that an action taken against a City employee, such as but not limited to, a reassignment, transfer, termination, disciplinary action or demotion, constitutes sexual harassment, the responsible appointing officer in the subject department shall set aside that action and provide a make whole remedy to the complainant including but not limited to reinstatement of all benefits, seniority and back pay. After a final determination is made that sexual harassment did occur, the appointing officer in the subject department shall provide a written notification of compliance with the requirements of this Section to the General Manager, Personnel.

(i) Prevention is the best tool for the elimination of sexual harassment. All City and County commissions, departments, boards and agencies shall provide to each of their supervisory employees a copy of this ordinance with a written explanation of the Civil Service procedure for filing a complaint for violation thereof. Each appointing officer shall require his or her supervisory personnel to instruct all employees under their supervision of the contents of this ordinance and of the Civil Service procedures for filing a complaint for violation thereof, and shall adopt a specific departmental policy delineating that sexual harassment will not be tolerated and shall provide to or acquire for its supervisory personnel a training program designed to educate and thereby prevent sexual harassment.

(j) This policy shall be construed in a manner consistent with the right of free speech, association and privacy.

(k) The offices of the Human Rights Commission and the Commission on the Status of Women shall be available to provide assistance upon request to any employee, applicant for employment, or City department wherever appropriate.

(l) Nothing in this Section is intended to limit the power of a department head to discipline a department employee found guilty or responsible for sexual harassment or retaliation. (Amended by Ord. 213-86, App. 6/13/86; Ord. 271-89, App. 7/28/89)

2. Job restructuring efforts with the cooperation of appropriate authorities to organize work and redesign jobs in ways that provide every-level training opportunities for persons lacking "journey-level" knowledge or skills to enter, and, with appropriate training, to progress in a career field;

3. Designing of education requirements or upgrades, as necessary, in order to reduce or eliminate discriminatory effects in particular groups in particular job classifications;

4. Inclusion of women and minorities on oral examination boards when practicable. Oral examination board orientations shall be conducted in writing or by means of automatic recording device, and all such written orientations shall be retained with the permanent records of the examination and may be inspected by interested parties in accordance with Rule 1.03.F.

APPENDIX B

San Francisco Civil Service Commission Rule 1.03.F

training, both classroom and on-the-job, to employees located into different jobs.

D. Dissemination of the Rule

Available to all interested parties. The rule shall be made available to all interested parties and shall be reviewed for the purpose of possible discrimination. Members of the oral examination boards shall be given copies of this rule well in advance of interview sessions. The rule shall be distributed to all recruitment sources, local, state, and employee representative organizations.

E. Monitoring and Evaluation

The Human Rights Commission of the City and County of San Francisco shall quarterly review the compliance status of the Civil Service Commission in regard to this rule and shall prepare reports on the findings and recommendations to the Commissioners of the Civil Service Commission and to the Mayor. Upon request of the Human Rights Commission, the staff of the Civil Service Commission shall fully disclose all non-confidential books, records, documents and other information of the Human Rights Commission shall have relevant to the monitoring and evaluation function herein described. Upon request, the General Manager, or other authorized persons shall appear and give testimony before the Human Rights Commission with respect to the Civil Service Commission's compliance with any of the provisions of this rule.

F. Discrimination Complaints

1. Purpose

Purpose: To Charter Section 2.60, only rule shall be proceeded to review and resolve allegations of discrimination on the basis of race, religion, sex, national origin, ancestry, age, physical handicap, marital affiliation, sexual orientation, industry, social status, color, medical condition (cancer-related), or the conditions associated with pregnancy syndrome (AIDS) and AIDS related conditions (ARC).

CIVIL SERVICE COMMISSION

RULE 1.03.F.

DISCRIMINATION COMPLAINTS

c. Job restructuring efforts with the cooperation of appointing authorities to organize work and redesign jobs in ways that provide entry-level training opportunities for persons lacking "journey-level" knowledge of skills to enter, and, with appropriate training, to progress in a career field;

d. Revamping of selection instruments or procedures, as necessary, in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

e. Inclusion of women and minorities on oral appraisal boards when practicable. Oral appraisal board orientations shall be conducted in writing or by means of automatic recording devices, and all such written orientation records shall be retained with the permanent records of the examination and may be inspected by candidates in accordance with Rule 9.16 as to inspection of papers.

f. Systematic efforts to provide career advancement training, both classroom and on-the-job, to employees locked into dead-end jobs.

D. Dissemination of the Rule

Copies of the foregoing Affirmative Action Rule shall be available in all City departments, which shall be responsible for its widest practicable dissemination. Members of the oral appraisal boards shall be given copies of this rule well in advance of interview sessions. The rule shall be distributed to all recruitment sources, local media, and employee representative organizations.

E. Monitoring and Evaluation

The Human Rights Commission of the City and County of San Francisco shall quarterly review the compliance status of the Civil Service Commission in regard to this rule and shall quarterly report its findings and recommendations to the Commissioners of the Civil Service Commission and to the Mayor. Upon request of the Human Rights Commission, the staff of the Civil Service Commission shall fully disclose all such non-confidential books, records, documents and other information as the Human Rights Commission shall deem relevant to the monitoring and evaluation function herein described. Upon request, the General Manager, Personnel, or authorized designee shall appear and give testimony before the Human Rights Commission with respect to the Civil Service Commission's compliance with any of the provisions of this rule.

F. Discrimination Complaints

1. Purpose

Pursuant to Charter Section 3.661, this rule establishes procedures to review and resolve allegations of discrimination on the basis of race, religion, sex, national origin, ethnicity, age, physical handicap, political affiliation, sexual orientation, ancestry, marital status, color, medical condition (cancer-related), or the conditions Acquired Immune Deficiency syndrome (AIDS) and AIDS related conditions (ARC).

Any employee or applicant may file a complaint alleging that he or she has been discriminated against as a result of any employment decision made by any agency, department or commission of the City and County of San Francisco. The sole purpose of proceedings under this section is to provide a mechanism for the investigation and resolution of such charges of discrimination and to provide an appropriate remedy for the complainant where a determination is made that discrimination prohibited by this rule has occurred. (Amended 1/4/88 - CSC Rule Change Number 11)

2. Filing a Complaint of Discrimination

Filing a complaint under this rule shall consist of the submission of a signed letter to the General Manager, Personnel, of the Civil Service Commission specifying those facts and reasons which support the charge. The letter of complaint must clearly state the basis upon which the charge of discrimination is filed and the specific adverse action about which the employee is complaining. The complainant bears the burden of proof and toward this end, should also provide supporting documents, names of witnesses and/or other facts that tend to corroborate the charge.

3. Filing Deadline Requirement

All such complaints must be filed, as specified above, within thirty (30) calendar days of the alleged discriminatory action or within thirty (30) calendar days of the date the complainant should have been aware of the alleged violation. The timely filing of said complaint under a specific Civil Service Commission approved departmental discrimination complaint procedure, where applicable, shall serve to satisfy this time requirement.

4. Discrimination Complaint Process

a. Upon receipt, the General Manager, Personnel, shall forward the complaint to the Assistant Secretary of the Civil Service Commission who shall forward copies of all such complaints to the San Francisco Human Rights Commission and to each member of the Civil Service Commission. The Civil Service Equal Employment Opportunity Unit (hereinafter EEO Unit) shall act on behalf of the General Manager, Personnel, for purposes of investigation, mediation, and/or any other resolution of all such complaints.

b. The EEO Unit shall contact the complainant for purposes of scheduling an initial intake interview and completion of the appropriate EEO complaint form. A copy of the complaint shall immediately thereafter be forwarded to the department against whom charges have been made.

c. Within ten (10) working days of written notification to the department being charged, the EEO Unit shall contact both parties to determine if resolution of the complaint is possible. Both parties are strongly encouraged to voluntarily attempt resolution of the allegations. The EEO Unit shall serve as a vehicle to mediate an amicable settlement where possible. Such an attempt shall not imply any determination or concession by either party with regard to the merit of the charges.

Successful attempts at resolution shall result in a written agreement signed by both parties. A copy of said agreement shall be submitted to the General Manager, Personnel, for review. Subject to those limits prescribed by law, resolution agreements shall be implemented as soon as practicable.

d. Should the attempt at resolution fail, the EEO Unit shall conduct an investigation of the charges. Such investigative authority shall include the reviewing and obtaining of copies of relevant documents, interviewing individuals and such other activity as may be necessary to obtain information pertinent to the specifics of the charges. The investigation shall result in the submission of an Investigative Report or a Recommendation of Dismissal to a panel of three persons of whom one shall be designated by the General Manager, Personnel, one by the Office of the Mayor and one by the San Francisco Human Rights Commission (hereinafter the Panel). This Panel shall constitute the Civil Service Commission's designee for purposes of hearing and disposition of employment discrimination complaints.

1) Recommendation of Dismissal

Where it appears after investigation that the complaint clearly fails to constitute a violation of this rule, the EEO Unit shall prepare a Recommendation of Dismissal specifying the reasons therefor. Said recommendation shall be forwarded to the Panel for review, to the complainant, and to the department charged with the alleged violation. Within ten (10) calendar days of the postmarked date of the Recommendation of Dismissal, the complainant may submit in writing to the EEO Unit, any facts or reasons opposing the Recommendation of Dismissal. The complainant's submission shall be immediately transmitted by the EEO Unit to the Panel. As soon as practicable after the receipt of complainant's submission or the expiration of complainant's time for submission, the Panel shall in writing dismiss the complaint or deny the Recommendation of Dismissal specifying the reasons therefor. Copies of the Panel's determination on the Recommendation of Dismissal shall be forwarded, within five (5) working days of the ruling, to the complainant and the department involved. No evidentiary hearing shall be held on the Recommendation of Dismissal. The complainant may seek review of a Panel's dismissal determination by the Civil Service Commission. The procedure and time limit for requesting such review shall be in accordance with Section 1.03.F.4.d.(v) below.

1i) Investigative Report and Hearing

Where it appears after investigation that corroborative evidence exists to warrant hearing of the charges, an investigative report shall be forwarded to the Panel and the hearing scheduled. Both parties to the complaint shall be given at least ten (10) working days notice of the date, time and location of the hearing. The complainant and the department shall have the right to have a representative at the hearing, call a reasonable number of witnesses, pose pertinent questions of opposing witnesses through the Chair of the Panel and present closing arguments.

The hearing shall be conducted in conformance with the Civil Service Discrimination Complaint Hearing Panel Procedures. A copy of these procedures may be obtained from the EEO Unit. The Panel shall issue written findings to both parties within thirty (30) calendar days of the conclusion of the hearing.

When appropriate the findings shall include a remedy for the complainant which shall be enforced as soon as practicable. The determination of the Panel shall be final thirty (30) calendar days from the postmarked date of the written findings unless either party to the complaint seeks review by the Civil Service Commission. The procedure and time limit for requesting such review shall be those set forth in Section 1.03.F.4.d.(v) below. The final determination or settlement agreement reached under this rule shall be binding upon and enforced by every employee and appointing officer.

iii) Any challenge to the jurisdiction of the Panel to hear a complaint must be submitted in writing to the EEO Unit for transmission to the Panel within ten (10) working days of the date of the written notice of complaint sent to the department against which charges have been made.

iv) Subject to budgetary considerations, the proceedings shall be recorded by a Court Reporter. It is not required that a formal transcript of the proceedings be made. Should any party desire a formal transcript, that party shall bear the cost of obtaining the transcript. No attorney fees shall be provided to any party pursuant to proceedings under this rule.

v) Request for Review of a Panel Action

A request for review of a Panel dismissal determination or a decision after hearing may be filed in writing with the Assistant Secretary to the Civil Service Commission specifying the reasons therefor. The request for review must include, in detail, the specific issue(s) upon which the Panel dismissal or decision is challenged and must be received in the Office of the Assistant Secretary to the Civil Service Commission no later than thirty (30) calendar days from the postmarked date of the Panel's written dismissal or decision. Requests for review will be referred to the Civil Service Commissioners to determine if the Commission will agree to review the matter. The Commission shall render its decision within thirty (30) calendar days of the receipt of the request for review. If after consideration of the written request a majority of the Commissioners do not consent to hear the matter, the request is denied and the action of the Panel is final. If the Commission agrees to grant the request for a review, the matter shall thereafter be calendared. At any review the taking of evidence and oral arguments will be permitted only as the Commission may determine. The decision of the Civil Service Commission shall be final and no reconsideration shall be allowed.

5. Where the allegations underlying a timely-filed discrimination complaint also comprise the bases or are an element of a separate matter which is subject to hearing or determination by the Civil Service Commission in accordance with its Rules, the final determination reached under this rule shall constitute a Finding of Fact and the merits of the discrimination charge shall not be reheard.

6. Complaints relative to examination matters covered by Rule 3.04, 5.06 or the Office of Revenue Sharing (ORS) Compliance Agreement of July 1979 shall not be processed under this rule but shall be dealt with by the General Manager, Personnel, of the Civil Service Commission.

7. It shall be a violation of this rule to discriminate against, retaliate against or harass any employee or applicant because such employee has complained of or opposed any discrimination prohibited under this rule or has made a complaint, testified, supplied evidence, assisted or participated in any manner in any investigation, proceeding or hearing under this rule.

8. Any employee or applicant may file a complaint alleging that he or she has been retaliated against in violation of subsection F.7. of this rule and any such complaint shall be filed and processed in the same manner as other discrimination complaints under this rule.

9. Investigations, statements of witnesses and transcripts thereof taken pursuant to proceedings under this rule shall be used only for the purposes set forth in subsection F.4. of this rule and shall be held in confidence insofar as is practicable and fair.

10. This rule does not preclude an individual's right to file the same or similar complaint, under any approved city department, board, or commission discrimination complaint process, or with any state or federal regulatory agency, or to litigate for relief. Where there exists a specific Civil Service Commission approved departmental discrimination complaint procedure, the complainant may opt to utilize the procedure first or may directly complain to the Civil Service Commission in accordance with this rule. Where a timely complaint is filed with both the Civil Service Commission Equal Employment Opportunity Unit and an approved departmental discrimination complaint procedure, deferral shall be accorded to the departmental procedure unless the complainant indicates to the Equal Employment Opportunity Unit, in writing and within five (5) calendar days of the Equal Employment Opportunity Unit intake interview, that they want the departmental procedures to cease. In the event that the complainant elects to proceed under departmental procedures, the Civil Service Commission shall hold its investigation in abeyance, pending the outcome of departmental procedures. Complainant's opposing any finding of the department shall, within ten (10) calendar days of the issuance of the findings, request in writing to the Equal Employment Opportunity Unit that the Civil Service Commission reinstitute its procedures under this rule. (Amended 1/4/88 - CSC Rule Change Number 11)

11. When a complaint filed under this rule is also filed with a state, federal or other agency duly authorized to investigate complaints of discrimination and to seek or impose relief, the Panel may determine that proceedings under this rule shall be suspended and deferral be accorded to that state, federal or other proceeding. When a charge of discrimination filed under this rule is also the subject or an element of litigation, proceedings under this rule shall cease and deferral be accorded to the court.

G. Incorporation of Federal Guidelines

The Commission, consistent with this rule, hereby adopts and incorporates the Federal affirmative action guidelines for local governments adopted by the United States Equal Opportunity Commission, the United States Commission on Civil Rights, the United States Department of Justice, the United States Department of Labor, and the United States Civil Service Commission as adopted August 26, 1976.

APPENDIX C QUESTIONNAIRE FOR CITY AGENCIES

QUESTIONNAIRE FOR CITY AGENCIES: (Note: some of these questions may already have been answered in the COSW survey.)

1. Formal policy or procedure? Do we have copies of all of them? any unwritten policies or practices?

How developed?

Last revision date?

Modeled on?

Modeled on Civil Service Guidelines?

Modeled on City Administrative Code?

Who receives copy of these?

Are they comprehensible to the typical employee? Are they understandable to ESL employees?

2. How are employees and supervisors made aware of policy?

Do you believe managers are familiar with policy and understand it?

Do you believe employees are familiar with policy and understand it?

3. Nature and extent of sexual harassment training (e.g. films hand-outs, role-playing) at your agency:

For Supervisors:

For Line employees:

Who conducts training?

How often?

Has the Civil Service Commission (now HRD) conducted training for your employees? How would you rate this training?

4. How are complaints handled?
Informal: Any requirement that complaint be in writing?
Who handles?
Formal: Any requirement that it be in writing?
Who handles?

5. Deadline for Complaint?
Informal:
Formal:
is the deadline enforced?
6. Deadline for completing investigation?
Informal:
Formal:
7. Are complainants informed at any point of other options and/or applicable deadlines
- Who conducts the investigations?
Is there a written procedure?
Who sets the discipline?
8. What authority does the EEO investigator have to recommend or take corrective action? Is his/her decision binding?
- Are there any guidelines for discipline?
- Is there a procedure in place for separating the complainant from the alleged harasser pending investigation?
9. Has the complaint process been effective?
10. Can the complaint process be improved?
How?
If you had greater resources (personnel and/or funds), would you apply them in this area and how would you apply them?
11. Are you aware of any good procedural models or EEO experts in City?
12. Number of internal (e.g. not EEOC, or DFEH, or EEO office) complaints since January 1, 1990?
13. Resolution of those internal complaints:
- | | |
|--|--|
| ☐ withdrawn | ☐ pending |
| ☐ disciplinary action taken | ☐ resolved without discipline |
| | ☐ no cause |

14. Number of outside complaints (DFEH, EEOC, city EEO office) and resolutions:

_____ withdrawn

_____ disciplinary action taken

_____ pending

_____ resolved without discipline

_____ no cause

15. Does the EEO officer/investigator meet with agency officials on a regular basis re: sexual harassment?

16. Who maintains records of sexual harassment?

17. What rules of confidentiality apply during the investigation and to the records?

18. What is the role, if any, of the union(s) in the sexual harassment complaint process?

Are there any provisions in the MOUs that affect the investigation of or disciplinary action re: sexual harassment?

What action does the union generally take, if any, if it represents both the complainant and the accused?

19 Has ADR or mediation been tried?

Any other novel approaches tried?

Have you had greater success with any particular approach in investigation or discipline?

20. What is the percentage of female to male harassment?

What is the percentage of same sex harassment?

21. Do you have regular interaction with the Civil Service Comm./EEO office? How is the interaction helpful or not helpful?

22. Employees: Total Number:

Percentage male:

Percent Female:

Is there any message you would like conveyed to the Mayor or the COSW on sexual harassment in the City, e.g. thoughts on prevention, enforcement, investigation, discipline, etc.?

APPENDIX D

Findings of Nine Selected Departments Examined

1. Identification and Dissemination of Written Department Policies.

1. Airport Commission.

Provides each employee with an Employee Handbook, which includes Administrative Code section 16.9-25. Also, the supervisors are required to post a copy of Executive Directive 83-27, which describes the airport discrimination complaint process, but this is not posted consistently as the posting is not monitored. The Airport currently is revising its employee handbook and probably will incorporate Executive Directive 83-27 in the handbook. The Department EEO Office stated that because many of the Airport's employees' dominant language is other than English, there is a significant number of employees who probably cannot understand the Handbook or the Directives. Nonetheless, there are no plans at this time to translate the information.

2. Department of Health.

Distributes a two page explanation and complaint form, as well as a copy of Administrative Code section 16.9-25, to all employees in training. [Since training is voluntary for line employees, these materials are not being distributed to all employees. See discussion following under training.] The Department distributed City Administrative Code Section 16.9-25 in the paycheck envelope of every employee in March 1994. The EEO Office stated that complaint form and section 16.9-25 are not fully understood by supervisors or employees.

3. Department of Recreation and Parks.

Distributes annually or bi-annually to all employees with their paychecks a copy of section 16.9-25. This section also is posted at different work sites. This Department currently is developing an employee handbook.

4. Department of Public Works.

This Department has rewritten Administrative Code section 16.9-25, and distributes its own version of it to all new employees during orientation, and to all managers and supervisors annually. It also is posted.

5. Public Utilities Commission

The policy was drafted by the PUC in 1993, incorporating Administrative Code section 16.9-25 and a complaint form. It is posted and distributed to all employees in an employee handbook and during orientation for new employees. The PUC EEO Officer believes that these policies are understood by the employees.

6. Department of Social Services

Until now, all employees received a copy of Administrative Code section 16.9-25 under a cover memo. The Department is currently in the process of reissuing the policy along with a brochure and complaint form to all employees. The policy is easily understood by all Department employees.

7. Fire Department

The Fire Department distributes to all employees (uniforms and civilian) General Order 91 A-2 (Equal Employment Opportunity Policy) (June 3, 1991) which prohibits discrimination, including sexual harassment. The General Order is also violated when an official or supervisory employee fails to take corrective actions when s/he knew or reasonably should have known that an employee in the line of supervision is being subjected to prohibited discrimination. Also distributed to all employees is General Order 92 A-85 (Oct. 26, 1992) which established an informal and formal complaint procedure and includes a case processing flow chart for a "rule violation," a case processing flow chart for an "EEO Complaint," a two page "Charge of Discrimination" form, a two page description of how to file a complaint, a three page "Notice of Appeal of Chief's Decision" concerning sexual or racial harassment, and descriptions of appeals by complaints and respondents.

General Order 92-A-85 was developed in response to a provision in the 1988 Consent Degree ordered by United States District Court Judge Marilyn Patel, in the case of *United States v. City and County of San Francisco*, No. C84-7084. This case alleged employment discrimination by the San Francisco Fire Department against women and minority group members. A Fire Department Task Force is currently reviewing the General Order Policies and submitted a preliminary draft to the Chief in May, 1994.

8. Police Department

The Police Department informs all employees about Order No. D-17, initially adopted in 1988 and revised most recently on January 4, 1994

through its training program and issuance of bulletins through commanding officers. The Order establishes Department policy with respect to unlawful discrimination and harassment and sets out a complaint procedure. Further, it gives notice to supervisors that they will be held accountable for "turning a blind eye," concealing a situation or failure to take action. Such a finding constitutes "negligent supervision," subjecting the supervisory officer to disciplinary action. The policy states that "[e]xcuses will not be accepted or tolerated if the investigation reveals that the supervisor knew or should have known about the harassment or discrimination."

9. Planning Department.

The Planning Department is unusual in this survey in that it is the smallest agency, and has the most extensive harassment guidelines. Since 1989 or 1990, when the Planning Department had a number of complaints by staff women of harassment by male planners, all employees receive copies of two different sets of guidelines: "Guidelines for Maintaining a Positive Work Environment" (issued 3/1/93) and "Procedures for Ensuring a Harassment Free Environment" (issued 9/3/93). The Planning Department also distributes copies of Administrative Code section 16.9-25. Both of these guidelines are similar in delineating the responsibilities of staff and management (e.g. monitoring the environment) and the procedures for reporting and investigating complaints of harassment. In this respect, these guidelines are excellent in making the workforce aware of how to handle perceived harassment. The guidelines do not, however, contain any definition or examples of what can constitute sexual harassment. Everyday examples or definitions would be helpful to the employees in the

Department in light of the Administrative Manager's comments that some of the supervisors do not understand the sensitivities of other cultures.

2. Training Procedures.

1. Airport Commission.

The Airport's goal is to train every employee every five years. Training is given 6-8 times a year to 30 employees at a time. More extensive training in personnel issues is given to supervisors. Training currently is provided by outside consultant because the Airport EEO officer believes she is excellent and the Airport has sufficient funds to hire an outside consultant. The HRD-EEO office offered to provide training, but the EEO officer declined based on his observation of the HRD-EEO's training given 5 years ago, which he thought was inadequate. In addition to the regular training just described, section heads review personnel policies with their sections whenever a problem arises in the section. There is no monitoring to make sure this is done.

2. Department of Health.

For line employees, training is voluntary, and is offered two to three times a year. Managers are being trained in stages. In 1993, 503 (40%) of all managers attended a one and one-half hour EEO training. If there is a problem in a particular department, as recently occurred in the psychiatric department at S.F. General, the EEO officer will arrange for a special training of the entire department. Training at the Department is conducted currently by EEO assistants Sam Schindler and Claire Nakasue. The EEO officer has not used the HRD-EEO office for training, but has heard

favorable comments about HRD trainer Collie Gaines. The EEO officer believes that more training is necessary and would like more funds for it.

3. Department of Recreation and Parks.

There is no training, except the training that supervisors receive through Civil Service Management Training. The EEO officer herself has not received any training in 5 years. The supervisors are directed to discuss the personnel policies with line employees, but this is not monitored. The EEO officer was told by HRD-EEO that it lacks sufficient staff to provide in-house training. In any case, she is aware of a training "fiasco" six years ago by HRD-EEO. The EEO officer strongly believes that training is needed in her Department, but she has no time to do it herself and has no assistants, much less funds for an outside trainer.

4. Public Utilities Commission.

There is no training for line employees. All supervisors were trained in 1992 in a 12 hour EEO training session by three PUC specialists. It is unclear how much time was devoted to sexual harassment. The EEO officer has conducted special training sessions in worksites with problems. HRD-EEO is willing to provide training but would charge the PUC for it. The PUC officer believes that there are no funds for such training, and he believes that the HRD-EEO's training is inadequate anyway. The PUC needs more funds for training, but he already has lost 3 assistants due to cutbacks, and he is resigning effective March 11, 1994. He does not know whether he will be replaced.

5. Department of Public Works.

Line employees receive no formal training, but can attend volunteer classes to qualify for advancement. New employees now receive employee handbooks and a one-half hour orientation on EEO issues. Supervisors have received training from HRD-EEO, but it is too general and does not focus on the reporting aspects. The Department did observe the HRD-EEO training at the PUC and thought it was good. This agency suffers from the same problems seen above at other agencies where EEO training is only provided on a voluntary basis to line employees seeking to advance. This also underscores the other criticisms of the HRD-EEO training -- that it is not tailored to the types of problems at the particular agency it is training.

6. Department of Social Services.

Beginning in 1992, all new employees have been required to attend a two and one-half hour EEO class within nine months of their hire date. One hour of this class is devoted to sexual harassment. There is no other training for line employees (approx. 1000 employees), but the EEO officer believes it is necessary and is looking for ways to arrange it. All middle management and above received training from Collie Gaines at HRD-EEO in the last 3 months. This group does not include line supervisors, who were last trained 3 years ago. The EEO officer is planning to retrain these supervisors in April, 1994. The EEO officer believes that there would be fewer harassment complaints if there were more training, but she has no time or funds for additional training.

7. Fire Department

The Department's Affirmative Action Coordinator is responsible for training on sexual harassment. She reported that in 1993 all new recruits received a four hour course on EEO, of which sixty percent involved sexual harassment training. She prepared a "Sexual Harassment in the Workplace Employee Trainee Manual" for participants which includes thirty-eight pages of text covering legal principles, definitions, training exercises, and manager/supervisory responsibility. The appendix contains General Orders 91 A-2 and 92 A-85 and a brief "legal background" prepared by Women in the Fire Service organization.

Also, in 1993 thirty-six new Battalion Chiefs and 156 new lieutenants received this same EEO course. In addition, 903 Department members received an eight (8) hour "communication and team building" training program that "indirectly related to some sexual harassment concerns." This program was conducted by the Civil Service Training and Development Unit.

An eight (8) hour course was given to all Assistant and Battalion Chiefs (80 members) by the Deputy Director of the California Fair Employment and Housing Division on how to investigate complaints of sexual harassment. This was provided at no cost and arranged by the Affirmative Action Coordinator.

The Coordinator provided a four (4) hour sexual harassment training program for 16 people of the Division of Management Services.

Since 1990, all recruits received sexual harassment training. In addition, the Coordinator reported that all officers from Deputy Chief to Lieutenant have received a three (3) day training program titled "Supervisor as Coach," provided by the Civil Service Commission Training

and Development Unit. A two (2) hour sexual harassment component was included. The course covers communication and sensitivity.

Finally, eighty-two (82) "peer mediators" received a seven (7) day training program of which two days covered communication skills, one and one-half cultural issues, including gender issues, and two and one-half days on mediation skills. These mediators are available to address sexual harassment concerns.

8. Police Department

All new recruits are given at the Academy a two (2) hour training course designed to familiarize the recruits with Order D-17, concerning EEO, including sexual harassment. One hour of this training is devoted to sexual harassment prevention. In 1993, the following members of the department received training: (1) 45 sergeants and lieutenants received a four (4) hour program on EEO, of which one hour was devoted to sexual harassment; (2) 43 dispatchers received a two (2) hour training on EEO, of which one hour was sexual harassment; (3) 10 dispatch supervisors received a four (4) hour EEO training, of which one hour was sexual harassment.

No sexual harassment training to date in 1994 was conducted. Plans for sexual harassment and EEO for the remainder of 1994 include training all recruits, dispatchers, all the patrol captains, lieutenants, and sergeants, an advanced officers course and miscellaneous civilians. The State Police recently provided a training curriculum in sexual harassment, and the Sergeant in charge of the Department EEO Unit anticipated receiving more than a two (2) hour time block for training new recruits.

9. Planning Department.

All of the employees in this Department received a 3-4 training in sexual harassment in 1992 from the Human Resources Department. The Administrative Manager thought that this training was excellent. There presently are no plans for future training because the Planning Department believes that the Human Resources Department will no longer be able to provide training due to impending budget cuts.

3. Sexual Harassment Complaint Procedures.

1. Airport Commission.

Informal procedure The EEO officer interviews the complainant and discusses the complaint with her supervisor or investigates further. The direct supervisors or managers rarely play any role in the investigation or resolution of informal complaints. The only written record of informal complaints is the EEO officer's notes.

Formal procedure The EEO officer differentiates these from the informal complaints in that these complaints are seeking redress of some kind. There is no requirement that any complaints be in writing; the EEO officer may rely only on his interview notes. Once he has interviewed the complainant, he chooses one of four options:

- a. The EEO officer completes the investigation by interviewing witnesses;
- b. The EEO officer delegates the investigation to one of his two assistants;
- c. The EEO officer engages the City Attorney assigned full time to the Airport;
- d. If the matter is complex or time-intensive, the EEO officer engages an outside law firm.

There is no limitations period for informal or formal complaints, or for completion of the investigation.[This does not appear to comply with the 30 day limit in Administrative Code section 16.9-25, Civil Service Commission rule 1.03.F or the Airport's Executive Directive 83-27.]

If cause is found, the EEO officer recommends corrective action to the manager who will sign off on the discipline (as required for progressive discipline under the various Memoranda of Understanding and Executive Directive 90-02.) Managers rarely disagree with the suggested corrective action.

The EEO officer believes that this system works well. The most common complaint is that the procedure takes too long. The EEO officer admits that he takes on too many of the investigations himself and does not complete them in a timely way.

2. Department of Health.

All sexual harassment complaints received by supervisors or managers must be reported to the Health Dept. EEO office within 3 days of the complaint, whether the complaint is formal or informal. An informal complaint is handled by the manager or EEO staff. A formal complaint results in an investigation and report by the EEO staff (currently 5 people, but will be reduced as of July 1, 1994). Any complaint must be made within 30 days of the incident. The investigation must be completed within 90 days of the complaint. There is no prescribed procedure for the investigation. The Health Dept. formerly followed the procedure set forth in a booklet, but it is not in use now. After a report of the findings of the investigation is produced, the manager or the department personnel office

recommends discipline, if appropriate, under the general progressive discipline guidelines.

The EEO officer stated that the success of this procedure is mixed. It is difficult to get employees to understand what behaviors are harassment. However, the problems with the procedure are not so severe that she would use extra resources to address them. Instead she said that providing "culturally competent services" to the public is a more important problem.

3. Department of Recreation and Parks.

The EEO officer investigates all complaints. The officer does not enforce the 30 day limitations period for filing a complaint unless the complaint is very old. After completing the investigation, the EEO officer recommends disciplinary action to the supervisor, if warranted. If the supervisor does not agree with the recommendation, the EEO officer takes the recommendation to the General Manager. The discipline falls within the progressive discipline guidelines set forth in the Memoranda of Understanding.

The EEO officer believes that the process has been effective, but a minority of employees still are dissatisfied due to a perceived "Old Boy Network" bias. The EEO officer suggested that the process could be improved by providing more training so that personal values can be inculcated in employees throughout the City.

4. Department of Public Works.

INFORMAL PROCEDURE In the majority of cases, the employee complains to her supervisor, who gives notice to HRD-EEO and the Public

Works EEO office. In these cases, the supervisor investigates and resolves the problem without outside support.

FORMAL PROCEDURE All formal charges are investigated by the Public Works' EEO office. Any complaint must be brought within 30 days of the incident. There is no deadline for completing the investigation. After the investigation, the EEO officer and supervisor determine the discipline, if warranted, and devise a make-whole remedy for the complainant. The manager may impose discipline without the approval of the Public Works' EEO office. If there is insufficient evidence of harassment, the complainant is offered counseling through the EAP, and the accused is counseled against further harassment. Discipline, from a reprimand to a 10 day suspension, is required if there is any evidence of harassment.

The EEO officer stated that the response to this process has been mixed and suggested that the process can be improved by increasing training and offering more extensive counseling for complainants.

5. Public Utilities Commission.

INFORMAL PROCEDURE If a complainant is not seeking a remedy, but just for the harassment to stop, she may file an informal complaint with the PUC EEO office, which attempts to resolve the situation. An informal complaint must be brought within five days of the incident. If discipline is warranted, it is prescribed by the department head.

FORMAL PROCEDURE A formal complaint must be brought within 45 days of the incident. It is investigated by the EEO office (currently 1 person). After the investigation, the EEO office prepares a report and recommends discipline, if warranted. The discipline is imposed by the

supervisor. There has never been a conflict between the EEO office and a supervisor about discipline.

The EEO officer stated that the process has had mixed results and suggested that it could be improved by encouraging prevention through management education.

6. Department of Social Services.

INFORMAL PROCEDURE If an employee complains to her supervisor about sexual harassment, and it is a first time occurrence, the manager and employees can resolve it without the support of the DSS EEO office or the creation of a written record. A complaint is treated informally if it involves a "less serious" offense. There is no deadline or complaint form.

FORMAL PROCEDURE The EEO officer is aware of the 3 day deadline, but does not enforce it. A written complaint is encouraged, but not required if the complainant is unwilling to prepare one. The EEO office handles all of the investigations, and prepares a report, with recommended discipline, in every case. The EEO officer discusses the recommended discipline with the manager before preparing the report. Thus, the discipline in the report reflects the agreement of the manager and the EEO officer. If the manager and the EEO officer do not agree on discipline, the Personnel Office intercedes. The only discipline guidelines are those found in the personnel manual distributed only to positions of supervisor and above.

The EEO officer said that the process is effective, but could be improved by discouraging stale claims, i.e. following the 3 day notice requirement in the City ordinance.

7. Fire Department

INFORMAL PROCEDURE Prior to or in conjunction with filing a formal complaint, Fire Department employees may request mediation. The Affirmative Action Coordinator is responsible for arranging the "peer" mediation. Eighty two (82) members of the Department have received mediation training. The Chief of the Management Services Division stated that once an EEO matter has been identified as a potential rule violation, the matter may not be mediated.

FORMAL PROCEDURE When an incident regarding an EEO matter occurs, it can be investigated through one of two complaint systems: (1) the complainant can file a formal EEO complaint with the Division of Management Services, or (2) the incident of a possible EEO rule violation is reported to the Chief of Department through the chain of command.

A formal EEO complaint must be filed within thirty (30) days of occurrence of an incident. A rule violation verbal report should be filed immediately with a written report within 24 hours. Under both procedures, investigations must be completed within ten days.

Rule Violation Procedure If an officer becomes aware of an incident of harassment that constitutes an EEO rule violation, the information must be sent through the chain of command in a sealed envelope to the Chief of Department. The Deputy Chief assigns to an Assistant Chief the responsibility for investigation. All interviews must be taped. After the investigation is complete, the investigator makes a recommendation to the Deputy Chief, who then makes a recommendation to the Chief.

EEO Complaint Process This process is monitored by the United States District Court's Monitor Barbara Phillips.¹ The time scheduled for this process was "imposed on the Department by the Federal Court." The procedure must be completed within 45 days. Any extension must be approved by the Court Monitor.

A complainant files a complaint at the office of the Division of Management Services. It is reviewed by the Chief of Management Services and an intake interview is arranged. The Chief of Management Service assigns an Assistant Chief, who then chooses a Battalion Chief to "assist" in conducting an investigation. Both the Assistant Chief and Battalion Chief must come from the division in which the incident occurred. Both the Assistant and Battalion Chief must be present at all interviews. None of the Assistant or Battalion Chiefs is a woman.

Upon completion of the investigation (must be completed within ten (10) days), the Assistant chief summarizes the results and submits the summary and supporting documents to the Chief of Management Services, who must review and make a recommendation within three (3) days. The recommendation and all investigative material are forwarded to the Review Committee. The Review Committee was established as a result of the Consent Decree referred to above and is composed of women, Asians, Blacks and Hispanics. The Review Committee determines whether the "investigation was thorough and procedurally correct." After its findings are submitted to the Chief of Management Services, final

¹ The Consent Decree ordered by the United States District Court in *United States v. City and County of San Francisco*, No. C84-7089, provided for the development of a complaint procedure to address racial and sexual harassment, among other issues, such as hiring and promotions.

recommendations, the findings of the Review Committee and all investigatory materials are submitted to the Chief of Department.

The Chief then makes a decision, which must occur within thirty (30) days from the filing of the complaint. If the Chief decides that the offense warrants discipline greater than ten (10) days suspension, formal charges are brought and the case is remanded to the Fire Commission for a formal hearing.

The Chief's decision may be appealed to the Court Monitor within fourteen (14) days of the decision. A form is provided.

The Court Monitor, Barbara Phillips, stated that she has had informal discussions with female members of the Fire Department and concluded that many incidents of sexual harassment go unreported because of fear of retaliation.

The Department has a comprehensive Discrimination Investigation Procedures Manual (3rd ed. 1992) prepared by the Division of Management Services. The Division of Management Services maintains an EEO Complaint Tracking Sheet noting complaints processed by Management Services, Human Resources Department-EEO Unit, the EEOC and DFEH.

8. Police Department

INFORMAL PROCEDURE If a member requests an informal investigation the Affirmative Action Officer (AAO) notifies the EEO Unit or commanding officer of the unit of the complaint. After investigation, there is an attempt to resolve the matter. If the complainant disapproves of the resolution, she is advised that she may file a formal complaint.

FORMAL PROCEDURE There are four possible avenues to file internal complaints: (1) through the chain of command, (2) to any supervisory

officer (outside chain of command), (3) to the Department Affirmative Action Officer, or (4) to the Department Equal Employment Opportunity Unit. Complaints must be filed within one (1) year.

The Department EEO Unit is responsible for investigating all formal complaints and is obligated to complete the case within 180 days. If a complaint is received by a commanding officer or supervisor, the officer prepares a complaint, collects evidence (but does not conduct interviews), and forwards the complaint and any evidence to the Affirmative Action Officer (AAO).

The AAO enters the complaint into a log, notifies the Chief of Police within three (3) days of receipt of the complaint, and directs the EEO Unit to conduct an investigation. The EEO Unit, after completing the investigation, makes a recommendation. The AAO then reviews the findings and makes recommendations to the Chief.

The Chief then makes a decision consistent with Civil Service Rules and the Department Disciplinary Penalty and Referral Guidelines (Nov. 17, 1993). Violations of General Order D-17 constitutes various classes of misconduct. Suggested penalties using progressive discipline are set out, ranging from termination or suspension to fines and reprimands.

The head of the EEO Unit is Sergeant David Spenser. Three officers are assigned to the Unit as investigators. Although there is an expectation that the officers will remain in the position for three years, in the last few years, officers average about one year in the unit. The officers generally have no specialized training or skills in EEO law.

9. Planning Department.

The Planning Department has only an informal procedure concerning sexual harassment complaints. Formal complaints are defined by the Planning Department as those complaints filed with outside agencies. Under the informal procedure, which is set forth in writing, an employee who experiences harassment is advised to make notes of any specific instances of harassment and report it to his or her supervisor, manager, personnel officer or union representative within five days. This deadline is not strictly enforced. Although an employee is free to contact whomever he or she chooses, the Planning Department has designated certain employees to receive complaints, based on the sensitivity of these particular persons. Any employee who receives a complaint is required immediately to contact the Director of the Planning Commission, presumably so that he can ensure that the person contacted is capable of providing a fair investigation. The Planning Department provides step-by-step instructions for continuing the investigation both in situations where (1) the alleged harasser admits that he or she engaged in the challenged conduct, or (2) the harasser denies that the challenged actions occurred. The guidelines for investigations are clearly written. The investigatory process is strengthened also by the fact that the Director is informed and can monitor the process if necessary, and due to the small size of the Department, the Personnel Director should be aware of any complaints and can assist in or assume the investigation and disciplinary process.

APPENDIX E
QUESTIONNAIRE FOR COMPLETED CASE STUDIES

I. NATURE AND EXTENT OF SEXUAL HARASSMENT?

1. Tell us a little bit about the work you did at _____.
2. How long did you work at _____?
(name of agency, department)
3. When did the harassment begin?
4. Who was the person or people who was harassing you? (boss? co-workers?)
5. Could you describe the harasser's behavior?
6. How often did it occur?
7. Did the behavior get better or worse over time? Did the type of harassment vary? How so?
8. Do you think your race/ethnic background played a role in the harasser's behavior? If so, how? Do you think the harasser made any assumptions about how you would respond because of your race or ethnicity?

II. WHAT KIND OF COMPLAINT DID THE EMPLOYEE PURSUE?

1. When this started happening to you, did you know that the city had a complaint process for sexual harassment?
2. If so, how did you find out about the complaint procedure? (co-worker told them, had written info).
3. Did you use the City's procedure? Did you use your own department's complaint procedure? Did you use the City's EEO Civil Service complaint procedure? If so, what did you do?
4. If not, what was it about the City's (or your own department's) procedure that made you choose not to go that route?

5. Did you go to the Commission on the Status of Women (COSW) at some point in the process? If so, did you find the COSW helpful? What did they do for you? If COSW was not helpful, why not?
6. Did you ever participate in any sexual harassment prevention training?
7. If so, what did you think of it? (i.e. was it helpful? did you learn anything?)
8. Did the training make it easier for you to report the harassment?
9. Do you have any ideas of ways that your co-workers could be made more sensitive to harassment problems?
10. Do you now if _____ (the harasser) ever participated in any sexual harassment training?
11. After the harassment started, when did you decide to tell someone about it?
12. Who did you tell first? A friend? Spouse? Why?
13. When did you decide to tell someone at work?
14. What did that person say or do?
15. Was that person your supervisor or someone who could stop the harassment? Who was that person?
16. How did the people you told about the harassment treat you?
17. How did that make you feel?
18. Is there any particular reason you were interested in being a part of this study? (Help others, etc.)
19. Was there something that could have been done that would have made you feel more comfortable about reporting the harassment?
20. What kind of a reporting procedure do you think would work best for people who experience what you experienced?

21. What do you think is the most important thing that workers need when they are trying to make the harassment stop?

III. HOW WAS THE COMPLAINT HANDLED?

1. If you reported the harassment to your employer directly, how were you treated by her/him?
2. Were you satisfied with the way it was resolved?
3. If not, what, specifically, would you have wanted to happen? If yes, is there anything else you would have wanted?
4. Do you have any ideas about how the complaint procedure could have better accomplished what you wanted?
5. How did your experience affect other co-workers? Do you think they became more informed about how to make a sexual harassment complaint?
6. Do you think it would now be easier or harder for someone in your workplace to report a case of harassment? To win a case?
7. Why do you think so?

VI. FOLLOW-UP ISSUES FOR CURRENT EMPLOYEES

1. Do you feel that there is still sexual harassment in the workplace? (If so), what types of harassment are still happening?
2. Do you feel there is ongoing workplace tension over sexual harassment issues? What types of things have you observed?
3. After you won or settled your case, has management contacted you to see if things are okay?
4. Have any of the sexual harassment procedures or training changed since your complaint was made? (If so), do you think the changes were a result of your complaint?
5. Is there any particular reason you were interested in participating in this study?

VII. UNION INVOLVEMENT

1. At the time of the harassment, were you in a unionized position?
2. What union?
3. Did you go to your union for help with the harassment problem?
4. If not, why not?

IV. WHAT DID THE WORKER WANT DONE INITIALLY?

1. Way back when you made the first complaint, what did you want to have happen to resolve the problem?
2. Did your goals for resolving the problem change?
3. If so, how did they change? (for example, the worker decided to go to court).
4. Why did your goals change?

V. WAS THE COMPLAINANT SATISFIED WITH REMEDY?

1. How was your case finally resolved?
2. What union?
3. Did you go to your union for help with the harassment problem?
4. If not, why not?
5. If yes, what did the union do for you?
6. Who did you deal with at the union?
7. Were you satisfied with what the union did for you? Why? Why not?

Interview Questions for Department Officials

I. WORKPLACE DEMOGRAPHICS

1. What is the make-up of the agency? Percentage men, women, minorities, etc.? What is the make-up of the managerial and supervisory positions? Historically, what has been the make-up of the agency?
2. Are there unions involved? What is their role in the process?
3. Have there been other sexual harassment complaints? How many formal and informal complaints? (How were they handled?) Type of complaints?

II. COMPLAINT PROCESS

1. Is there a formal complaint process?
2. Is there an informal complaint process?
3. How long have these procedures been in effect? Are they followed? If not, why?
4. Do you think employees feel that the procedures are meaningful? If not, why not?
5. How are the employees made aware that these procedures exist?
6. What does your office do to investigate complaints?
7. Who handles them?
8. Do you hold hearings on the complaints?
9. Is a complainant automatically entitled to a hearing or is that decided by your office?
10. If there is a hearing, who hears the case?
11. What criteria/standards are used by your office to determine whether a complaint has merit?

12. What criteria/standards are used to decide whether to hold a hearing?
13. What criteria/standards are used to dismiss a complaint?
14. What do you look for in assessing the merits of a claim?
15. Are complaints confidential? Who are the complaints given to?
16. What happens to individual if they don't keep the complaints confidential?
17. How long does the typical complaint process take from start to finish? Does this meet timeliness established by the procedures?
18. Who represents the complainant in the process? Can she choose?
19. What is the union's involvement in the complaint process?
20. Do the procedures require the targets of the harassment to confront the alleged harasser?
21. Is there an appeal process? What is it?
22. Does the process assure that people who file complaints are not subject to retaliation? Have complainants claimed retaliation in the past?

III. TRAINING

1. What type of training is given? Length? How often? Method? Who is taught? Who has been trained in this department?
2. Are supervisors, personnel staff and employees all given the same type of training? Is there special training for supervisors? Is there special training for personnel staff?
3. What level of authority, if any, is sending the message that a harassment free workplace is imperative?
4. Are new employees trained?

5. Does training discuss:

- what is harassment?
- what is the law?
- the psychological and emotional impact on the victim?
- prevention?
- liability?
- discipline?

IV. DISCIPLINE

1. Have there been situations when management is aware of a harassment problem before a complaint is made? If so, what has been done? Has the harasser been disciplined? If not, why not?
2. In general, when management decides that someone has sexually harassed a City employee, what type of discipline is imposed, if any? How quickly is it imposed? Is it different if this is not the first harassment incident?
3. Are employees aware that they will be disciplined if they harass?
4. Have people been disciplined in the past?

APPENDIX F

Case Study No. 1

Complainant was a clerical employee working in a small and confined office area, within a large city facility. She was repeatedly subjected to overt physical, sexual advances, and sexual statements by a co-worker. The consultants spoke with the complainant, her attorney, the city attorney, a departmental EEO specialist, a departmental human resources director, an administrator in the facility where complainant worked, complainant's union representative, and personnel involved with counseling of the complainant. All of the parties interviewed agreed that the harassment occurred and that it was extremely serious. The harasser was an employee who had conflicts with various co-workers in his office. The complainant, who described herself as being embarrassed and ashamed about the incidents, eventually suffered an emotional breakdown as a result of the harassment. The harassment went on for a considerable period of time before it was brought to the attention of department personnel or EEO officials, in part because of the complainant's physical fear of the harasser and her resulting reluctance to lodge a complaint about the incidents.

According to parties interviewed, the complainant utilized both the union grievance procedures and departmental EEO complaint mechanisms, and then retained an attorney to because of frustration with how long these mechanisms were taking to resolve the problem. The complainant also felt that her unit's administrative personnel were not at all responsive to the problem.

In this case, a 30 day suspension was imposed on the harasser, and although he remained in the same unit, he was placed in a more isolated work site. The complainant transferred to an entirely different location within the city, received workers compensation benefits and had some amount of sick leave restored, but did not otherwise receive a monetary settlement. The complainant and others expressed concern that the case was resolved by transferring the complainant, while the harasser remained in his position.

There were factors in this case that affected the agency's ability to discipline the harasser more severely. First, the complainant was so severely traumatized by the harassment that she was unable or unwilling to testify in any disciplinary proceeding. Second, the union representative reported that the collective bargaining agreement then in effect limited management's ability to transfer an employee for punitive reasons. This contractual provision has since been changed.

To the extent that there was any consensus among the parties interviewed, it was that the complaint mechanisms took too long, that city personnel were not sufficiently informed about sexual harassment, and that improved training was needed. The view was expressed that if supervisors were better informed about sexual harassment, they would be able to identify problems at the outset and elicit from the target of harassment the information needed to support discipline of the harasser.

Other than the areas of consensus just described, there was a wide range of viewpoints on what went wrong in this case. The complainant felt that her supervisor was responsive to her complaints but that his administrative superiors were not. An administrator contacted felt that the supervisor was not sufficiently informed about the harassment. Some

parties felt that the departmental EEO complaint process worked well, and other felt that it was ineffective.

Case Study No. 2

Complainant is a professional employee who was one of a group of women within a small city department who presented a grievance over sexual harassment. The harassment included comments and actions of an overtly sexual nature, as well as more general abusive treatment of female staff members. The grievance concerned actions of both a supervisor and a high level manager, as well as the general failure of the department to deal with complaints about those personnel. Most of the women protesting the harassment were members of racial or ethnic minority groups. Interviews were conducted with the complainant, a representative of the city's EEO office, a second woman who participated in the grievance, a department manager and a union representative.

In this case, the complainant made efforts to resolve the problem by discussions with management, prior to filing any type of complaint or grievance. The complainant felt management was not responsive to the problem, and indeed, at least one manager was the source of some of the women's complaints. The complainant also sought assistance from the Civil Service EEO office, and as described by her, she was told that she "didn't have a case."

With the active involvement of their union representatives, the complainant and other co-workers pursued their sexual harassment complaint through the union grievance process. A newly appointed department director worked with the grievants in establishing an in-house committee to deal with the work environment and in developing policies

for processing complaints about the work environment. A multi-step departmental procedure was established. The complainant is not aware of any situation in which those procedures have been utilized thus far. She does not know whether there have not been problems necessitating use of the procedures, or whether the procedures are seen as too cumbersome and are therefore being ignored. Sexual harassment and work environment training has also been provided to all staff. The training was provided by the Civil Service EEO office. According to the complainant, the response to the training has been mixed. The effectiveness of the training has been dependent upon the quality of the particular person responsible for the training session.

The complainant and a co-worker involved in the grievance felt that the department director took the grievance seriously and made a good faith effort to deal with future disputes by developing preventive procedures. However, the women felt that there was neither sufficient acknowledgment of the problems that had occurred, nor adequate penalties imposed on the alleged harassers. One of the harassers retired, but was permitted to return to the workplace after his retirement. One woman interviewed expressed considerable discomfort over that fact that this individual was permitted on site, and felt that his presence interfered with her ability to perform her job. Another alleged harasser remained in a high level position, with only a minor reallocation of job responsibilities. Both women interviewed felt that some type of discipline should have been imposed.

A department manager expressed his view that much of the alleged harassment did not involve the type of egregious conduct that is often involved in sexual harassment cases. He felt that some of the conduct

was the product of "bad habits," and that there is adjustment needed in work relationships as women increasingly join the ranks of professional employees. He also recognized that cultural differences between men and women in his department left room for misunderstandings about certain conduct, and that cultural differences need to be addressed in any sexual harassment training sessions.

Had the union not taken an active role in this case, the complainant feels that she would have had no way to pursue her complaint. Management did not respond to informal complaints; the Civil Service EEO office would not assist her; and there was not any formal departmental complaint procedure in place at the time that she was subjected to harassment.

Case Study No. 3

Complainant was a blue-collar worker in a small city facility, and the only woman in her unit. She worked for less than one year, during which she was subjected to ongoing harassment by co-workers. The harassment included derogatory comments about her ability to do the work, sabotage of hazardous work equipment, denial of access to her work area, and physical assault. The complainant repeatedly informed her supervisor about the problems and although he told her he would discuss the problem with the male co-workers, the harassment did not stop. According to the complainant she was threatened with an unfair layoff, had her hours reduced, and was effectively forced out of her position as a result of the unfair conditions. She left city employment, and got a position working in the private sector.

The complainant used the civil service EEO process, but was strongly dissatisfied with the result of the investigative report. It was her perception that the EEO office saw its role as protecting and defending the city. At some point, the complainant sought assistance from the Commission on the Status of Women, and she eventually retained outside counsel and filed suit. The case was resolved, four years after the harassment occurred, with a substantial monetary settlement.

According to the complainant's attorney, the supervisor acknowledged that he was on notice of the harassment, but no effective action was taken to stop it. The EEO Office did not see the claim as meritorious, and a modest monetary settlement demand was rejected by the City early in the litigation. The end result of the litigation was a substantial monetary settlement for the complainant and attorney's fees. In the opinion of the complainant's attorney, had the City EEO process properly identified this case as a meritorious one, the City could have resolved the dispute without the considerable expense that resulted from litigation and settlement costs.

The complainant pursued legal action because she could not get a satisfactory resolution of the problem informally. She does not feel that effective penalties were imposed upon the harassers. To her knowledge, one or more of the harassers was transferred to another position within the city system and attended a training session conducted by the a city EEO office, but did not otherwise received counseling about the incidents. Her overall feeling is that it was unjust for her to be forced out of her position, while the harassers remain in city employment.

Case Study No. 4

Complainant is a blue collar worker in a large city department and one of relatively few women at her particular worksite. Interviews were conducted with the complainant and the department EEO officer.

A co-worker began to harass the complainant during her probationary period. The harassment included obscene, derogatory comments, repeated obscene gestures by the co-worker, and an eventual physical assault. Because of concerns about her job security, the complainant waited until after she completed her probationary period to protest the harassment. She first confronted the co-worker directly, but the harassment did not stop. She subsequently protested the situation to her supervisor and a departmental EEO officer. Although she felt that the personnel to whom she complained were supportive during her discussions with them, she did not see any results from the protests she lodged. Frustrated with the lack of resolution, the complainant went to the Commission on the Status of Women for assistance.

According to the departmental EEO officer, the initial formal complaint was forwarded to appropriate management personnel, all of whom agreed that the incident involving obscene derogatory comments was a serious situation and would be investigated. The harasser was notified that a formal complaint had been filed and had union representation in various meetings concerning the complaint. The harasser denied that the alleged incidents occurred. Management then requested that the departmental EEO office conduct a formal investigation. Shortly after the EEO investigation began, the complainant filed a supplemental statement concerning further obscene gestures by

the co-worker, and a second female employee submitted a complaint about the harasser.

The harasser was advised by his superiors to stay away from the complainant and he agreed to do so. There was, however, a subsequent complaint filed about a physical assault. At this point (approximately four months after the initial complaint), the complainant was both terrified of the co-worker and frustrated because nothing effective had been done to stop the harassment. At this time, the harasser's shift assignment was changed, and the EEO officer recommended to the department manager that there be a disciplinary hearing. Charges were filed alleging sexual harassment, harassment, mistreatment of a co-worker and retaliation, as well as excessive absenteeism and inattention to duty. The disciplinary hearing resulted in a 15 day suspension.

The complainant continues to work in the department, as does the harasser. She sees him at the worksite and continues to feel intimidated by him. In complainant's view, he still treats her in an offensive manner, although his conduct is no longer overtly sexual. The complainant feels that the only way to stop offensive conduct by the harasser is to formally protest the matter to supervisors or managers. She does not feel that the disciplinary action imposed fundamentally affected the conduct of the harasser.

Case Study No. 5

Complainant is one of a small group of a blue collar worker in her trade, working within a large city facility. She is one of two women in her job classification at the worksite. The harassment experience by this complainant was not overtly sexual in nature; rather, it was harassment

toward her because of her sex, as a woman in a non-traditional job. The harassment included less favorable job assignments, continuing placement on the least desirable shifts when less senior male employees were given more favorable shifts, and lack of job training. The complainant went on state disability because of stress resulting from her shift rotations and the hostile work environment she experienced. Based upon advice she received from unnamed parties, the complainant chose not to seek workers' compensation benefits.

The complainant contacted her union regarding the denial of training, and other problems she was having on the job. According to the complainant, the union advised her to hire a private attorney. The complainant had reservations about seeking assistance from the union, because she did not feel that it was sympathetic to her problems.

The complainant initially tried to file a complaint with the Civil Service EEO office, but did not pursue it because she got what she felt was a hostile response from the staff member she contacted there. Instead, she pursued a complaint with the departmental EEO office. The complaint remained at the departmental EEO office for approximately a year, and the complainant received what she considered to be unacceptable settlement offers from the city.

Dissatisfied with the progress of the departmental EEO investigation, complainant sought assistance from outside counsel and the Commission on the Status of Women. Because of financial constraints, the complainant handled much of the settlement negotiations on her own, with advice of counsel, and then had her attorney participate at the conclusion of the negotiations. The case was finally resolved, approximately one year after the complainant went on disability, with an agreement to place

her on a more desirable shift assignment, restoration of a minimal amount of sick leave, and a work plan to address training needs.

The complainant continues to work in her blue collar position, and feels that the difficulties have been resolved. She did, however, suffer considerable financial hardship because of her extended period on disability leave, without her regular salary. She also felt that the available complaint procedures were relatively ineffective, and that it was necessary to go to outside advocates to get the dispute resolved.

APPENDIX G

DISCRIMINATION LAWSUITS FILED BY WOMEN EMPLOYEES AGAINST THE CITY (JUNE 1993)

SUMMARY OF LITIGATION AND SETTLEMENTS

NAME/COURT	DATE	TYPE OF CASE	SUMMARY OF FACTS	RESOLUTION & COST
Adult Probation v. 936-374 City Atty. Aleeta Van Runkle, 554- 4225	Administrati ve hearing 9/11/91	sexual harassment -discipline hearing to recommend termination of harasser	was found by complainant having sex in his office; threatened complainant to keep quiet.	SETTLED Affirmed Jone's dismissal. Case filed with the EEO. Time costs a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ 222.85 04/01/93-06/30/93: \$ 358.90 07/01/93-12/31/93: \$ 43.88 Lit. Costs paid by Airport. Airport has paid \$581.75. SUBTOTAL: \$ 625.63 TOTAL:
Airports v. SF Airport Commission U.S.N.D. NO. C910630 Atty. Diane Herman 876-2101 Plaintiff Atty: Michel F. Willey	filed March 5, 1991	Sex Discrim./ Sexual Harassment Violation of Title VII: 42 U.S.C. §2000e et seq.; 42 U.S.C. §1983.	Plaintiff alleges she was denied promotion to captain because of her sex even though she was rated number 2 on the captain's list. She was also sexually harassed.	CITY PREVAILED Plaintiff asked for: 1. Permanent injunction against sex discrimination. Order directing plaintiff's promotion. 3. Damages re lack of promotion, pain and suffering, and general damages. 4. Costs and atty's fees. Time costs a/o 9/30/92: \$ 4,630.50 10/01/92-03/31/93: \$ NL 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ NL Lit. Costs paid by Airport TOTAL: \$ 4,630.50
Airports v. SF Airport Commission et al. U.S.N.D. NO. C910764 Atty. Diane Herman 876-2101 Plaintiff Atty: Joseph O'Sullivan	filed March 14, 1991	Sex Discrimination. Violation of Title VII: 42 USC §2000e et seq.; 42 USC 1983.	Plaintiff took Lieutenants Test for promotion w/i Airport Police. Although she received the highest score, she was denied promotion. She had been denied promotion on other occasions and also alleges sexual harassment.	CITY PREVAILED Plaintiff asked for: 1. An injunction against the defendants to prevent further sex discrimination 2. Order directing plaintiff's promotion 3. \$500,000 in punitive damages 4. Compensatory damages. 5. Legal fees and cost Time costs a/o 9/30/92: \$17,568.69 10/01/92-03/31/93: \$ 328.74 04/01/93-06/30/93: \$ 109.58 Lit. Costs paid by Airport TOTAL: \$ 18,007.01

Airports ABM, SF City & County Sup. Ct. NO. 941-196 OR 377-717 Plaintiff Atty: Diane Herman 876-2101	Filed 1992	Discr. based on age, pregnancy, sex, sex harassment and national origin.	former employees of ABM, parking lot contractors at SFI Airport fined when renegotiated contract.	SETTLED Plaintiff's request: Compensatory damages, punitive damages, attorneys' fees, interest and costs Time Cost A/O 9/30/92: \$ 2,262.58 10/01/92-03/31/93: \$ 767.06 04/01/93-06/30/93: \$ 2,903.87 07/01/93-12/31/93: \$ 670.75 Lit. Cost IF ANY, PAID BY AIRPORT SUBTOTAL: \$ 6,604.26 TOTAL:
S.F. Animal Care and Control, S.F. Society for Prevention of Cruelty to Animals et al NO 922-174 Plaintiff Atty: Susan Kramer and Karen Anderson Ryer City Atty - Aleeta Van Runkle 554-4225 12/31/93 report lists ZOG as attny. S.F. SUPERIOR COURT NO. 922-174	filed July 27, 1990	Disparate Treatment re Sexual Orientation (Lesbian)/ Denial of Promotion/ Job Harassment Atty. Aleeta Van Runkle, 554-4225	Originally filed with HRC, DFEH, and EEOC when she was denied a promotion even though she was qualified. After filing with HRC etc., Plaintiff was again denied promotions as retaliation for her filing.	PENDING Plaintiff asked for: 1. Declaratory judgment that defendant's policies violate rights of plaintiff. 2. Injunction 3. Reinstatement 4. Back pay 5. Future loss of earnings 6. General damages; punitive damages; treble damages 7. Attorneys fees and costs Time Cost A/O 9/30/92: \$24,767.84 10/01/92-03/31/93: \$10,930.80 04/01/93-06/30/93: \$ 1,302.39 07/01/93-12/31/93: \$ 726.55 Lit. Cost A/O 9/30/92: \$ 3,462.41 10/01/92-03/31/93: \$ 2,462.40 04/01/93-06/30/93: \$ -345.00* 07/01/93-12/31/93: \$ -497.80* * negative amounts result from reimbursement of costs by plaintiff. SUBTOTAL: \$ 43,652.39 - \$ 842.80 EEO recommended dismissal of complaint. Dullea appealed on 5/20/92.
Bd. of Supervisors #949-798 (Anton & Roedel Lawfirm) City Atty - VanRunkle	Filed 2/26/93	sexual harassment, sex discr., wrongful termination.	alleges . made sexually degrading comments and tried to kiss her and grab her buttocks	SETTLED Asking for \$148,000.00, compensatory, punitive, emotional distress, lost wages, atty fees Time Costs 10/01/92-03/31/93: \$ 1,048.47 04/01/93-06/30/93: \$15,611.77 07/01/93-12/31/93: \$59,801.49 Lit. Cost 04/01/93-06/30/93: \$ 6.94 07/01/93-12/31/93: \$ 1,526.46 SUBTOTAL: \$ 77,995.13 TOTAL:

Community College EEOC vs. CCSF US Dist. Ct. No. C86-1328 EPL City Attny: CARO	Settled 2/92	Age discrimination	Dispute over terms of settlement of EEOC case against City because Charter provided that entry-level police officers could not be over 35. Alleged that Jackson was owed more back pay	SETTLED Time Cost a/o 9/30/92: \$19,041.42 Lit. Cost a/o 9/30/92: \$ 4,276.59 Settlement: \$50,000 TOTAL=\$73,318.01
SF District Atty. 9th Circuit Judge Lucason C85-4925 USDC #C85-4925 JPV Atty Randy Riddle, 554-3917	filed 1985	race/sex discrim. retaliation	Afr. Am woman atty worked as legal secty in DA's office from 1981-83. Was interviewed and denied position, hired white male and white female	SETTLED plaintiff claims lost wages for \$50,000, city paid \$30,000. Time Cost a/o 9/30/92: \$125,452.93 10/01/92-03/31/93: \$ 1,756.98 04/01/93-06/30/93: \$ 1,134.38 07/01/93-12/31/93: \$ 120.84 Lit. Cost a/o 9/30/92: \$ 11,419.20 10/01/92-03/31/93: \$ 373.60 04/01/93-06/30/93: \$ 0.00 07/01/93-12/31/93: \$ 13.00 SUBTOTAL: \$ 140,270.93 TOTAL: \$ 170,270.93
Fire Department V. City and County of SF # 941911 Atty Linda Ross Plaintiff Atty - Frances Pinnock	settled 7/92 filed 4/3/92	race discrimination and harassment	claimants accused of cheating on a test. Allege accusations were race related and tarnished their credibility in the department.	SETTLED City paid \$50,000 total to all plaintiffs; \$24,500 to Ali, the only female plaintiff. Time Cost: \$77,808.44 Lit Cost: \$21,518.83 Time and Lit. costs are total for all plaintiffs, only one of whom (Ali) is a female. Dpty. City Attny, Linda Ross advised apportioning total figures by 1/3 to come up with separate figures for Ali. SUBTOTAL: \$ 33,109.09 TOTAL: \$ 57,609.09
Fire Department USA (Firefighter v SFFD US Dist. Ct. #C84-1100MP #C84-7089 M-P	settle 11/91	atty fee reimbursement on previous racial discr. cases	reimbursed atty fees, clerk time and court costs assoc. w/claims filed in a number of racial harassment claims filed against SFFD All 34 original claims were settled or dismissed	SETTLED City paid \$268,891.25 Consent decree case

Fire Department v. SFFD SF Cty Superior Ct. No. 943-751 city atty Randy Riddle (or RILE?) Plaintiff Atty: Francis Pinnock	filed 7/92 settled 7/93	sex/race discrimination sex harassment	harassment by her captain while on the job as a firefighter	SETTLED Plaintiff requests: 1. General Damages, Special Damages, Attys fees, Punitive Damages, Costs of suit Time Costs a/o 9/30/92: \$ 1,108.67 10/01/92-03/31/93: \$ 12,896.16 04/01/93-06/30/93: \$ 47,166.10 07/01/93-12/31/93: \$ 1,199.29 Lit. Cost a/o 9/30/92: \$ 0.00 10/01/92-03/31/93: \$ 330.94 04/01/93-06/30/93: \$ 7,737.01 07/01/93-12/31/93: \$ 567.29 SUBTOTAL: \$ 71,005.46 City Settled 7/93 \$75,000.00 + approximate \$85,000.00 one year workers comp. costs and full wages + benefits TOTAL = \$231,005.46
Fire Department v. SFFD #947-422 Plaintiff Atty: Francis Pinnock City atty: Van Runkle	filed Nov 19, 1992	sexual harassment, sex discrimination, retaliation,	one of first women hired in 1987, first women lieutenant 1989, sexual harassment, sex discrimination, undermining plaintiffs authority, tried pushing plaintiff off a roof, lack of adequate training and mentoring in position	PENDING sue for cease and halt to discrimination, lost wages, compensatory damages, atty's fees and suit costs, asking for \$300,000. Time costs 10/01/92-03/31/93: \$ 588.68 04/01/93-06/30/93: \$ 4,515.27 07/01/93-12/31/93: \$ 18,061.13 Lit. Cost 10/01/92-03/31/93: \$ 0.00 04/01/93-06/30/93: \$ 11.07 07/01/93-12/31/93: \$ 933.78 Subtotal: \$ 24,109.93

Juvenile Probation v. Juvenile Hall - San Francisco Superior Ct. No. 919-454 Plaintiff Atty: Jody Lewitter of Boltuch & Siegel City Atty: CARO	CSC EEO claim filed 6/13/89 lawsuit File 9/4/90 City file 45-93-24e settled 6/93	Sex harassment, sex discr., assault, wage discr.	Plaintiff was first and sole woman to work in the Buildings & Grounds Dept. of Juvenile Hall. She was constantly harassed by other employees, paid at a lower rate for work of equal skill (\$9.61 compared to males \$17.00) and not informed of opportunities for promotion. co-workers sabotaged tools, refused entry to work, screamed profanities and physically charged her. She repeatedly complained to her supervisors who did nothing. As a result, plaintiff was forced to take a leave of absence, and was subsequently constructively discharged.	SETTLED Plaintiff asked for: 1. Compensatory damages including lost wages and employment benefits 2. General damages according to proof for emotional distress 3. Punitive damages 4. Costs and attorney's fees 5. Pre-judgment interest Time costs a/o 9/30/92: \$ 19,765.40 10/01/92-03/31/93: \$ 5,924.15 04/01/93-06/30/93: \$ 404.14 07/01/93-12/31/93: \$ NL Lit. Cost a/o 9/30/92: \$ 4,220.40 10/01/92-03/31/93: \$ 772.90 04/01/93-06/30/93: \$ 455.00 07/01/93-12/31/93: \$ NL SUBTOTAL: \$ 31,541.99 City settled for \$90,500.00 agreed to draft info bulletin for women in nontrad. jobs & provide more sh training TOTAL = \$122,041.99
Police v. SFPD 0838649	filed 1985 settled 1987	sexual harassment, retaliation wrongful termination violation of civil rights	Plaintiff subject to sexual harassment during 9 years of duty as police officer. When reported an incident of fellow officers, suffered retaliation including verbal attacks, harassing phone calls, abusive hate mail, vandalism of locker and car, interference with plaintiff's radio communication, and silent treatment from coworkers. Complaints ignored by plaintiff's superiors. Harassment forced plaintiff to take disability leave due to mental stress.	SETTLED \$275,000 settlement + lifelong pension and health benefits, Time & litig. costs = TOTAL = approx. 1 mill
Police v. SF OCC US District Ct. # 088-4531 sc	filed 1989 settled 4/91	WRONGFUL termination sexual discrimination	sex harassment a retaliation against occ management. City showed plaintiff violation of personnel policy attendance violations	CITY PREVAILED court found in city's behalf, awarded city's costs. 12/91 Time costs = \$39,091.85 lit. costs = \$ 8,280.54 SUBTOTAL = \$47,372.39 City awarded costs
Police v. City and County of SF: Police Michael Williams Sup Ct. # C91-1190	filed 2/5/91 settled 5/93	sexual harassment, retaliation	Plaintiff's male supe sgt. made comments, gestures. After filing complaint sgt threatened retaliation and received threatening phone calls and notes.	SETTLED City paid \$35,000.00 Police Comm suspended sgt. for 45 days. 5/93 SEPERATE T & L COSTS FROM BELOW?

Police v. City and County of SF; Police Commission Michael Williams Sup Ct. # C91-1190 Plaintiff Atty: George J. Engler and Elisa M. Engler Atty Aleeta Van Runkle, 554-4225	filed 2/5/91	sexual harassment, violation of civil rights	Sgt William is alleged to willfully and maliciously sexually harass subordinate female employees.	SETTLED Time cost a/o 9/30/92: \$ 20,628.02 10/01/92-03/31/93: \$ 7,526.85 04/01/93-06/30/93: \$ 1,626.86 07/01/93-12/31/93: \$ 30,214.38 Lit. Cost a/o 9/30/92: \$ 12,821.57 10/01/92-03/31/93: \$ 164.62 04/01/93-06/30/93: \$ 9.75 07/01/93-12/31/93: \$ 740.31 SUBTOTAL = \$ 73,732.36 Settled 11/93 = \$77,500.00 + voc rehab expenses at \$23,680. (2 yrs. worker's comp. payments at \$336.00 per week + 4 semesters school expenses paid.) TOTAL = \$173,912.36
Police SFPD Sup Ct #946-682 Plaintiff Atty: Vincent Courtney Jr. and Sylvia Courtney city atty: Art Hartenger	10/19/92 filed 12/18/92	sexual harassment, negligence	Since 1989 plaintiffs subjected to physical and verbal sexual harassment by Sgt. who was terminated May 1992. However, plaintiffs allege SFPD took no action to remedy complaints of discrimination	PENDING wage loss, medical expenses, compensatory damages, atty. fees Time cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ 1,382.06 04/01/93-06/30/93: \$ 808.30 07/01/93-12/31/93: \$ 4,142.42 Lit. Cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ 1,498.54 04/01/93-06/30/93: \$ 0.00 07/01/93-12/31/93: \$ 177.50 Subtotal: \$ 8,008.82 Judge Pollack decision to overrule Hensic's dismissal Nov. 1993. City will appeal decision.
Police v SFPD	12/92			see Durnigan v.SFPD
Police v. SFPD	12/92			see Durnigan v SFPD

Police v. SFU C91-0566 BAC city attny: CLOS	settled 8/92	Civil Rights, Discriminatory treatment/ emotional distress	plaintiffs filed race and sex orientation claims alleging retaliation for filing incl. verbal harass & vandalism. fliers making racist sexist & homophobic comments were distributed	SETTLED city settled paying Araya \$20,000 & Walker \$40,082. Time cost a/o 9/30/92: \$ 39,125.28 10/01/92-03/31/93: \$ 0.00 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ NL Lit. Cost a/o 9/30/92: \$ 4,626.98 10/01/92-03/31/93: \$ 112.43 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ NL SUBTOTAL: \$ 43,864.69 TOTAL: \$103,946.69
Police v. SFPD S.F. SUPERIOR COURT No. 909-722	settled 3-91	Sexual Harassment	Plaintiff, a police officer who received a disability retirement, claims she was subjected to a wide variety of sexual harassment while working at Taraval Station.	SETTLED City paid \$40,000. If plaintiff succeeded at trial she would have been entitled to back pay (to 1988), front pay, compensatory damages, special damages for medical treatment, punitive damages against the Sergeant, and attorney's fees. TIME & LIT. COSTS = \$ 817 TOTAL = \$40,817
Police Dept. 0933722 SFU. USDC 093 3722 filed 10/14/93 370-93-0277 plaintiff attny: Roderick Bushnell 415/777-5010 & Gerald Schwartzbach 415/777-3828 city atty Hartenger	filed 3/93	sexual harassment, discrimination and retaliation in employment	Plaintiff, a police officer alleges her supervisor, sexually harassed her verbally and physically, creating a hostile working environment. Plaintiff went to Mayor for help, he did not intervene. Plaintiff charges retaliation from for sexual harassment complaint, including defamation of character and transfer to undesirable position and removal from dept. committees. Plaintiff also alleges has threatened retaliation in form of undesirable transfers to witnesses.	PENDING Plaintiff is seeking damages plus interest for loss of earnings, deferred compensation & other employee benefits; compensatory damages for losses resulting from humiliation, mental anguish and emotional distress; punitive damages; reinstatement to former position; permanent injunction...; costs of suit. Time cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ 3,461.45 04/01/93-06/30/93: \$ 8,771.20 07/01/93-12/31/93: \$ 6,858.74 Lit. Cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ 0.00 04/01/93-06/30/93: \$ 2,931.40 07/01/93-12/31/93: \$ 313.75 Police dpt. overtime Subtotal = \$ 22,336.54

Public Health Local 790 v. SF DPH-SFGH SF Sup CT #927-223	Settled 9/91	Money damages loss of wages medical condition discrimination	worked as nurse at SFGH. Physician examination showed that she had a medical condition but was capable to perform work. Department continued compulsory sick leave.	SETTLED Settled in an unconditional resignation and agreement never to reapply for employment. City paid \$35,000 to Ms. Limon. Time and Lit. COST = \$2,457.57 TOTAL=\$37,457.57
Public Health File # 48-921 v. SF DPH	filed 7/91 settled 3/92	sexual harassment & assault	sexually assaulted by co-worker who had prior history of sexual harassment; uninvited physical contact and verbal harassment. She went to supervisor but no action was taken.	SETTLED Claimant ultimately suffered an emotional breakdown and commenced sick leave. Claimant's recovery rights could include compensatory damages, back wages, restoration of leave balances, punitive damages and attorneys' fees administrative remedy, took 3 weeks unpaid stress leave. \$10,000 unlitigated settlement.
Public Health vs. Regents of the University of CA: CCSF Cir. No. 941-711 filed another suit in June in San Francisco Superior Ct. - see articles in file Plaintiff Atty: Kathryn B. Dickson of Dickson Ross Dr. Lynn Ponton filed a separate suit in Alameda City on 6/1 Atty. Art Hartinger, 554-4312	Complaint filed 3/27/92	civil rights, sexual harassment, sex discrimination, retaliation, negligent retention	supervisor and coordinator of inpatient social services at the department of psychiatry at SFGH pressured complainant for dates, sexual favors, discussed his sex life and grabbed her and forced himself on her. After refusing advances supervisor began retaliating with poor performance reviews, recommending her dismissal. Attempts to complain to dept. went unheeded.	PENDING Plaintiff asks for sexual harassment to cease, policy to be posted, sh training, disciplinary action, lost wages and benefits, compensatory damages, attorneys fees and other costs. Time cost a/o 9/30/92: \$ 29,196.05 10/01/92-03/31/93: \$ 7,232.61 04/01/93-06/30/93: \$ 213.96 07/01/93-12/31/93: \$ 26.75 Lit. Cost a/o 9/30/92: \$ 120.05 10/01/92-03/31/93: \$ 27.45 04/01/93-06/30/93: \$ 34.00 07/01/93-12/31/93: \$ 0.00 Subtotal \$ 36,850.87

Public Health v. DSS SFSC No. 944-804 Plaintiff Atty: Michael Sorgen city atty ADAM	Filed 7/30/92	Sex and race discrimination and wrongful termination Atty. Barry Weinstein 554-3917	Plaintiffs were housekeepers at San Francisco General Hospital. was physically and verbally harassed by a porter at SFGH. Her husband witnessed this harassment. She complained to her supervisors, but nothing was done, and they were both dismissed because of her complaints and their race (Afr- Amn).	CLOSED Time cost a/o 9/30/92: \$ 671.61 10/01/92-03/31/93: \$ 15,211.37 04/01/93-06/30/93: \$ 22,826.02 07/01/93-12/31/93: \$ 5,705.00 Lit. Cost a/o 9/30/92: \$ 0.00 10/01/92-03/31/93: \$ 503.55 04/01/93-06/30/93: \$ 3,656.96 07/01/93-12/31/93: \$ 5,162.51 Subtotal \$ 53,737.02 City settled for \$55,000.00 less the amount of GA benefits paid as of the date of resolution plus interest at rate of 7% accrued as of 9/93 Total = (approx) \$108,737.02 less the amount of GA benefits paid as of the date of resolution plus interest at rate of 7% accrued as of 9/93.
Public Utilities v. County of San Francisco, et al. S.F. Superior Ct. #838 129 Plaintiff Atty: Amy Oppenheimer of Levy, Oppenheimer & Scaparotti	filed 1985 Settled 1987	Sexual Harassment, Sex Discrimination Criminal Battery	only female car painter sexually harassed by co worker at MUNI maintenance division, after complaints to supervisors were ignored harassment escalated to assault and battery, plaintiff quit work and moved out of the city for safety.	SETTLED Settled in 1987 for an approx. settlement of \$105,000. Cost data not on file.
Public Utilities v. SF PUC Sup Ct. #953-205 Plaintiff Att: Frances Pinnock City Atty: Aleeta van Runkle	6/93	sexual harassment, sex discrimination, failure to take action, constructive discharge, retaliation	worked in PUC Affirmative Action Unit. Claims AA Supervisor sexually harassed her and that dept. retaliated when she complained Case went to trial July 13, 1994.	Pending Asking for \$300,000.00, general damages, atty fee, punitive damages, costs of suit Time cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ NL 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ 6,124.46 Lit. Cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ NL 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ 173.76 SUBTOTAL: \$ 6,298.22

SFUSD 956-690 v. SFUSD city atty: ADAM	11/29/93	Sex disc. & Harassment	Charges physical assaults, verbal abuse, firing threats & personal humiliation followed by retaliation for seeking redress of complaint.	PENDING Time cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ NL 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ 0.00 Lit. Cost a/o 9/30/92: \$ NL 10/01/92-03/31/93: \$ NL 04/01/93-06/30/93: \$ NL 07/01/93-12/31/93: \$ 0.00
SFUSD v. SFUSD Plaintiff Atty: Linda Ross City Atty: Aleta Van Runkle (?)	7/93	sexual harassment	3 women worked at Bret Harte Pre-school claim they were sexually harassed by supervisor Norm Cromartie. Allege Mr. Cromartie threatened them with his gun and made lewd comments and gestures.	PENDING City Attny. says they do not have record of suit.
SF_USD v. S.F. Unified School District. Atty. Aleta Van Runkle 554-4225 New one: LIPS U.S.N.D. NO. C90-3689 Plaintiff Atty: Michael Harris & Eva Patterson	filed Dec. 28, 1990	Sex and Race Discrimination. 42 U.S.C. §1981 & §1983; Title VII; 42 U.S.C. §2000e.	Plaintiff's (African American & Hispanic) applied for position at SFUSD. Plaintiffs have more experience & are in higher classification than the man that was hired.	SETTLED Plaintiff's asked for: 1. Injunction against sex discrimination. Declaration that employment practices of defendants are unlawful. 3. compensatory seniority, back pay, sick pay, disability benefits 4. General and special damages 5. Attorneys fees Time cost a/o 9/30/92: \$ 12,711.47 10/01/92-03/31/93: \$ 6,583.14 04/01/93-06/30/93: \$ 3,126.05 07/01/93-12/31/93: \$ 1,005.18 Lit. Cost a/o 9/30/92: \$ 668.52 10/01/92-03/31/93: \$ 476.05 04/01/93-06/30/93: \$ 0.00 07/01/93-12/31/93: \$ 13.00 SUBTOTAL: \$ 24,573.41 settled 7/93 TOTAL: \$?
Social Services v. SF DSS Sup Ct. #912-273 city atty: CLOS	settled 11/91	professional negligence	DSS client claims that social worker made sexual advances toward her during therapy	SETTLED City settled for \$25,000, employee paid \$15,000, employees insurer paid \$30,000. Time Cost (9/92) = 385.84 Lit. cost = 0.00 TOTAL=\$55,385.84 Case closed 5/14/91

Social Services Dismissal Hearing of: V.	concluded 8/91	committing unethical acts	complaint received from client being interviewed by for welfare assistance. Charged with soliciting sexual favors from clients; sexually harassing clients; malfeasance. Also, drinking on the job and alcoholic breath.	The Hearing Officer concluded that Solis was guilty of mistreatment of persons, and unethical conduct in soliciting sexual favors from Vilma Orellana, and Alcoholic breath. Solis was terminated.
Social Services Sr USS V	settled 12/91	age discr.	employed at DSS for 27 yrs. In 1988 dept reorganization moved all Asst. Dir. to new positions as Dir of Sp. Proj w/ no supervisory resp. Plaintiff charge that she was demoted and discr.	SETTLED 12/91 time & litig. 15,387.57 City settled for medical \$3,010.1, wage loss of \$1,000, retirement benefits, one time benefit of \$15,929 & \$7,500 workers comp claim TOTAL= \$ 42,827.57

APPENDIX H

San Francisco Administrative Code Article 33 §§33.4 (Commission on Status of Women's Powers)

(Commission on the Status of Women)

AMENDING SAN FRANCISCO ADMINISTRATIVE CODE ARTICLE 33 PERTAINING
TO THE COMMISSION ON THE STATUS OF WOMEN, BY ENLARGING THE
COMMISSION'S POWERS AS SET FORTH IN SECTION 33.4 AND INCREASING
COOPERATION WITH THE COMMISSION REQUIRED OF OTHER CITY AND COUNTY
ENTITIES AS SET FORTH IN SECTION 33.10.

NOTE: Additions are indicated by underscoring,
deletions are indicated by ((double parentheses)).

Be it ordained by the People of the City and County of San
Francisco:

Section 1. Chapter 33 of the San Francisco Administrative
Code is hereby amended by amending Section 33.4 to read as
follows:

SEC. 33.4. POWERS AND DUTIES. The Commission shall
have the power and duty to:

(a) Prepare and disseminate educational and
informational material relative to the role that tradition
and prejudice and the deprivation of equal opportunities in
areas such as education and employment have played in
keeping women of all races, creeds, ages, marital status
and sexual orientation from developing their full
individual potentials and from contributing fully to the
cultural and economic life of the community.

(b) Hold public hearings on matters relevant to the

Supervisors: Achtenberg, Alloto, Ward,
1069g Shelley, Micken, Gonzalez, Hallinan,
Brett, Kennedy, Maher, Hatch

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general scope of the Commission, and to subpoena records
and witnesses in connection with such hearings.

(c) Review national, state and local legislation which
may have an impact on the status of women and recommend to
the Mayor and the Board of Supervisors positions on
significant legislation affecting the status of women.

(d) Develop and maintain a Talent Bank of Women which
can be used in a variety of ways, including but not limited
to assisting the Civil Service Commission in recruiting
qualified women to serve as members of qualifications
appraisal boards, and the Commission on the Status of Women
in nominating qualified women for appointment by the Mayor
to vacancies on boards and commissions of the City and
County.

(e) Cooperate with and make recommendations to the
Civil Service Commission in the development and
implementation of programs and practices which have the
purpose of furthering the objectives of this ordinance,
including but not limited to recommendations regarding
terminology used in job announcements, recruitment
techniques, job qualifications, salary schedules, training
and promotional practices.

(f) Encourage the Civil Service Department to recruit
and implement employment of qualified women applicants for
those positions filled through the Civil Service Department

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which traditionally employ few women.

(g) Study job categories which traditionally are filled primarily by women or primarily by men to determine whether the rate of compensation in the traditionally female jobs compares reasonably and favorably with the rate of compensation in the traditionally male jobs, taking into consideration the training, experience, mental and physical effort and responsibility required and the working conditions involved, and take necessary steps to implement equity.

(h) Study and make recommendations regarding the special employment problems of women stemming from the assignment to them of traditional roles such as responsibility for child rearing, including but not limited to the need for child care centers, on-the-job training and retraining for those who have been out of the employment market for extended periods and part-time employment opportunities.

(i) Cooperate with and make recommendations to law enforcement agencies and officials concerning the treatment of women in the City and County's correctional system, the enforcement of laws which have a particular impact on women, including but not limited to laws relating to domestic violence, rape and prostitution.

(j) Cooperate with and make recommendations to the

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Community College District and to the San Francisco Unified School District on the development and implementation of programs and practices which have the purpose of furthering the objectives of this ordinance, including but not limited to recommendations concerning in-service training, sex-role stereotyping in textbooks and courses and methods of providing role models for female students who may be interested in areas of employment not traditionally filled by women.

(k) Provide information, guidance and technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination against women because of their status as women, and to serve as liaison between the public and private sectors on matters affecting women in the community.

(l) Advise the Civil Service Commission on the form of the annual census of City and County employees and members of boards and commissions regarding sex, race, salary level, job classification and other statistical data, and to develop an analysis of the data in regard to the areas of concern to the Commission.

(m) Cooperate with and make written recommendations to the Board of Supervisors, the Mayor, City and County agencies, boards and commissions and City and County

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officials regarding the development and implementation of programs and practices for the purpose of furthering objectives of this ordinance, including but not limited to, recommendations with respect to improving the City and County's procedures for enforcing prohibitions against ((gender-based discrimination)) all forms of employment discrimination against women, including sexual harassment, within the City and County government and with its contractors.

(n) Investigate and mediate, at the request of a party and within the limitations of staff time and resources, all incidents of discrimination against women because of their status as women which are not within the exclusive jurisdiction of some federal or state agency or the Human Rights Commission, and make specific recommendations to the involved parties as to the methods for eliminating discrimination against women.

(o) Prepare, encourage and coordinate programs of voluntary action to reduce or eliminate existing inequalities and disadvantages in both the public and private sector resulting from prejudice, tradition and past discrimination.

(p) Oversee and administer funds allocated to the Commission for domestic violence programs.

(q) Review the programs and budget of any other City

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and County department or agency where there are reasonable grounds for believing that department or agency is not complying with this Article or is otherwise not protecting the rights of women fully; and, if necessary, to request the Controller to perform a management or budget audit with respect to those deficiencies.

(r) Monitor the reports of complaints of ((gender-based discrimination)) all forms of employment discrimination against women (including sexual harassment) received and forwarded by the Civil Service Commission and all other agencies, departments, boards and commissions of the City and County pursuant to Administrative Code Section 33.10, and consult with and make recommendations to the Civil Service Commission and all agencies, departments, boards and commissions of the City and County concerning the handling of such complaints.

(s) Assist in the preparation of training programs and materials with respect to ((gender-based)) employment discrimination against women, including sexual harassment, for City and County departments and agencies.

(t) Study and monitor all agencies, departments, boards and commissions of the City and County to identify patterns and practices that have a discriminatory effect upon women.

Section 2. Chapter 33 of the San Francisco Administrative Code is hereby amended by amending Section 33.10 to read as

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follows:

SEC. 33.10 COOPERATION OF OTHER CITY AND COUNTY ENTITIES.

(a) The Mayor, Chief Administrative Officer and each commission, board, department and agency of the City and County shall fully cooperate with the Commission in fulfilling the provisions and purposes of this Article and shall regularly consult with the Commission on matters relating to women.

(b) The Civil Service Commission shall ((promptly report to the Commission concerning each complaint it receives of gender-based discrimination, including but not limited to sexual harassment)) make monthly reports to the Commission regarding all complaints of employment discrimination against women that it receives. The Civil Service Commission's monthly reports to the Commission on the status of women shall not contain information identifying the parties involved in the events giving rise to the complaint, but shall include: (1) the number of complaints filed that month; (2) the nature of each complaint filed; (3) the department, bureau or division in which each complaint arose; (4) the damages allegedly suffered with respect to each complaint; and (5) the status of all outstanding complaints ((all other relevant details)). The Civil Service Commission shall consult with the Commission concerning the manner in which such

complaints are handled. The Civil Service Commission and all other agencies, departments, boards and commissions of the City and County shall also send the Commission any and all reports ((the Civil Service Commission)) they make((s)) to the Board of Supervisors and/or the Mayor concerning ((gender-based)) any type of employment discrimination against women (including sexual harassment). The Civil Service Commission shall provide the Commission, upon request, access to pertinent, non-confidential personnel information with respect to current City and County employees and applicants for employment including, but not limited to: (1) an employee's or applicant's eligibility or certification status; and (2) any workforce utilization or salary analysis performed by the Civil Service Commission.

(c) The City Attorney shall submit to the Commission a monthly report of settlements, which includes lawsuits and claims filed by female employees of the City and County alleging employment discrimination. The report shall include: (1) the name of the case or claimant; (2) the nature of the case; (3) the damages allegedly suffered; and (4) the amount of the settlement. The City Attorney shall also provide, quarterly, a summary of litigation judgments in favor of and against the City and County, including all lawsuits filed by female employees alleging employment

1 discrimination. The City Attorney shall alert the
2 Commission to the filing of any lawsuit against the City
3 and County alleging any form of employment discrimination
4 against women and shall provide a monthly report of all
5 administrative claims filed against the City, including any
6 claims alleging employment discrimination against women.
7 Upon request, the City Attorney shall forward to the
8 Commission a copy of any complaint or claim filed with or
9 served upon the City Attorney.

10 (d) All agencies, departments, boards and commissions of
11 the City and County, with the exception of the City
12 Attorney, shall make monthly reports to the Commission
13 regarding all complaints of employment discrimination filed
14 by their female employees alleging any type of employment
15 discrimination. The monthly report shall be filed by the
16 15th of each month, for the previous month, and shall
17 include: (1) the number of complaints filed that month; (2)
18 the nature of each complaint filed; (3) the bureau or
19 division in which each complaint arose; (4) the damages
20 allegedly sustained with respect to each complaint; and (5)
21 the status of all outstanding complaints. All agencies,
22 departments, boards and commissions of the City and County
23 required to file such reports shall consult with the

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1 Commission concerning the manner in which such complaints
2 shall be handled.
3
4

5 APPROVED AS TO FORM:

6 LOUISE H. RENNE
7 City Attorney

8 By:

Murray Morley
9 Deputy City Attorney

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Board of Supervisors, San Francisco

Passed for Second Reading

February 10, 1992

Ayes: Supervisors Achtenberg Alloto
 Britt Gonzalez Hallinan Heish
 Maher Migden Shelley Ward

Absent: Supervisor Kennedy

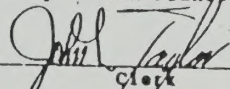
§ Finally Passed

§ February 18, 1992

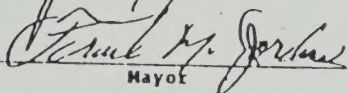
§ Ayes: Supervisors Achtenberg Britt
 § Gonzalez Hallinan Heish Kennedy
 § Maher Migden Shelley Ward

§ Absent: Supervisor Alloto

I hereby certify that the foregoing ordinance
 was finally passed by the Board of Supervisors
 of the City and County of San Francisco



Clerk



Mayor

File No.
 264-91-2.1

FEB 28 1992

Date Approved

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